



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** *MND-S, MNR -S, MNDCL -S, FFL*

### **Introduction**

This hearing dealt with an application by the landlords pursuant to the *Residential Tenancy Act*, for a monetary order for unpaid rent, unpaid utilities, for the cost of cleaning, and for the recovery of the filing fee. The landlords also applied to retain the security and pet deposits in partial satisfaction of their claim.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

The tenants acknowledged receipt of evidence submitted by the landlords. The tenant, JF, testified that she had sent her evidence by registered mail to the landlords on January 16, 2023. The landlords stated that the tenants' evidence was not received by them. Since the tenant mailed her evidence late and the evidence was not received by the landlords, prior to the hearing, the tenants' evidence was not used in the making of this decision. Both parties gave affirmed testimony.

### **Issues to be decided**

Are the landlords entitled to a monetary order for unpaid rent, for the cost of cleaning and for the recovery of the filing fee? Are the landlords entitled to retain the security and pet deposits in satisfaction of their monetary claim?

### **Background and Evidence**

The tenancy started on November 30, 2021, for a fixed term of one year. The end date of the fixed term was December 01, 2022. The monthly rent was \$2,400.00 payable on the first of each month. The tenants paid security and pet deposits of \$1,200.00 each. The rental unit is a two-level home. The tenants occupied the entire home.

On May 25, 2022, there was a water leak under the internal staircase. A plumber was called immediately, and the water supply was shut off. The restoration work started, and asbestos was detected under the flooring. The affected areas were removed per

protocol and the company that did the testing, deemed the living environment to be safe and clear of hazardous particles. The restoration work continued until August 10, 2022, at which time the supply of flooring was unavailable.

On October 03, 2022, the contractor informed the tenants that the flooring was scheduled to be delivered on October 13, 2022, and that the remaining flooring in the lower level of the home would be removed prior to that date. The tenants were also informed that they would have to move all their personal belongings out of the lower level of the home, to allow the flooring to be installed.

Attempts to schedule a time to install the flooring was difficult as JF informed the contractor that her dog was unfriendly and that the tenants would have to be home at the time of installation, to avoid the workers getting bitten by the dog. JF suggested weekends for the work to be done. Eventually, October 26, 2022 was finalized as the day for installation of the flooring and completion of the project. The tenants were reminded to remove all personal belongings out of the area that was slated for the installation of flooring. On October 26, 2022, the contractor attended the rental unit and found that the tenants had not moved their personal belongings and therefore the work to complete the project, could not be done.

The landlords and the tenants kept in communication throughout the duration of the restoration project. The landlords allowed the tenants to live rent free for period of the restoration. The parties agreed that the tenants would resume rent payments upon completion of the project. Accordingly, the tenants did not pay rent for the months of June to October 2022. However, when the actions of the tenants did not allow the final installation to be done, the project could not be completed. The landlords informed the tenants that effective October 26, 2022, they would be required to pay rent.

On November 01, 2022 the tenants failed to pay rent and on November 02, 2022 the landlords served the tenants with a 10-day notice to end tenancy for \$2,864.52 in unpaid rent, which included prorated rent for October 2022 (\$464.52) and rent for November 2022 (\$2,400.00). The tenants did not pay rent and on November 14, 2022, the tenants gave the landlords notice to end the tenancy effective December 14, 2022. The landlords are claiming rent for December 2022.

The tenant, JF stated that on December 07, 2022, she closed her utility account at the address of the rental unit and moved out on December 14, 2022. The landlords filed proof of utility invoices that were billed for the period of December 07 to 14, 2022 in the amount of \$22.62. The landlord is claiming this amount.

The tenant, JF agreed that she did not shampoo the carpet and the landlords filed photographs of a stained carpet and a receipt for the cost of carpet cleaning.

The tenants provided the landlords with their forwarding address in writing on December 14, 2022. The landlords made application to retain the security and pet deposits, in a timely manner, on December 19, 2022.

The landlord is claiming the following:

1.	Unpaid rent – prorated for October 2022	\$464.52
2.	Unpaid rent for November 2022	\$2,400.00
3.	Unpaid rent for December 2022	\$2,400.00
4.	Unpaid utilities	\$22.62
5.	Carpet cleaning	\$267.75
6.	Filing fee	\$100.00
	<b>Total</b>	<b>\$5,654.89</b>

### **Analysis**

Based on the testimony of both parties and the documents filed into evidence by the landlords, I find as follows:

1. Unpaid rent – prorated for October 2022 - \$464.52
2. Unpaid rent for November 2022 - \$2,400.00
3. Unpaid rent for December 2022 - \$2,400.00

The parties agreed that on May 25, 2022, a water pipe started leaking and there was damage to the flooring on the lower level. The tenants confirmed that none of their personal belongings were water damaged. The restoration work started in June 2022 and the tenants continued to occupy the entire home, had limited access to the lower level but did have access to the kitchen. The landlords offered to allow the tenants to live rent free starting in June 2022. The agreement was that once the restoration was complete, the tenants would resume paying rent.

To complete the project, the installation of the flooring had to be done. Despite trying to accommodate the tenants' schedules and instructing them to remove their personal belongings in order to install the flooring, the tenants did not do so. Therefore, the lower level was not ready for the installation that was scheduled for October 26, 2022. I find that in one of JF's emails to the landlord, JF suggested that she would hire a U-Haul truck and use it for storage of her belongings for the day of the flooring installation but failed to do so. Since the completion of the restoration work was stalled by the tenants

and did not complete on October 26, 2022, the landlords informed the tenants that rent would be payable starting October 26, 2022.

Based on the above I find that the landlords made a generous offer to the tenants by allowing them to occupy the rental unit, rent free for five months. I further find that it was reasonable for the landlord to request rent payments from October 26, 2022, after the completion of the restoration work was hindered by the tenants. Therefore, the landlords are entitled to prorated rent for October 2022, in the amount of \$464.52.

The tenants did not pay rent for November 2022 and continued to occupy the rental unit. I find that the landlords are entitled to rent for November 2022 in the amount of \$2,400. On November 14, 2022, the tenants gave the landlords notice to end the tenancy effective December 14, 2022.

Section 45 (1) of the *Residential Tenancy Act* states:

- 45** (1)A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that
- (a)is not earlier than one month after the date the landlord receives the notice, and
  - (b)is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Since the fixed term of the tenancy had ended on November 30, 2022, the tenants were in a month-to-month tenancy effective December 01, 2022. By providing notice to the landlords on November 14, 2022, the earliest the tenants could end the tenancy was December 31, 2022. Accordingly, the landlords are entitled to rent for December 2022 in the amount of \$2,400.00.

4. Unpaid utilities - \$22.62

The landlords filed evidence to support their claim for the cost of utilities for the period of December 07 to 14, 2022. Therefore, the landlords are entitled to their claim.

5. Carpet cleaning - \$267.75

*Residential Tenancy Policy Guideline#1* addresses the responsibility for the residential premises. With regard to carpets, the guideline states:

*Generally, at the end of the tenancy the tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year.*

The tenancy started on November 30, 2021 and ended on December 14, 2022. Since the tenancy was at least one year long, the tenants are responsible for the cost of steam cleaning or shampooing the carpet.

6. Filing fee - \$100.00

The landlords have proven their claim and are entitled to the filing fee of \$100.00.

Overall, the landlords have established a claim of \$5,654.89. I order that the landlords retain the security deposit of \$1,200 and the pet deposit of \$1,200.00 in partial satisfaction of the claim and I grant the landlords an order under section 67 of the *Residential Tenancy Act* for the balance due of \$3,254.89. This order may be filed in the Small Claims Court and enforced as an order of that Court.

**Conclusion**

I grant the landlord a monetary order in the amount of **\$3,254.89**.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: January 23, 2023

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Residential Tenancy Branch