



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNDC, MND, FF

Introduction

This hearing dealt with a cross-application by the tenant and landlord for respective monetary compensation for damage or loss under the Residential Tenancy Act (Act), Regulation or Tenancy agreement, and is inclusive of respective applications for recovery of the \$50 filing fee for this application.

Specifically, the tenant's revised claim is as follows:

1). Cost of pest / mice extermination service	\$204.75
2). Cost of removal of tree root blocking sewer	\$243.00
3). Interest on previously returned security deposit	\$ 31.82
4). Recovery of filing fee	\$ 50.00

\$ 529.57

The landlord is claiming for replacement of a damaged / broken / cracked mirror closet door, identified in the move out inspection report as such, and for recovery of the filing fee, as follows:

1). Cost (estimate) of replacement of broken door	\$ 470.00
2). Recovery of filing Fee	\$ 50.00

\$ 520.00

Issue(s) to be Decided

Is either party entitled to the monetary amounts claimed?

Background and Evidence

The tenant and landlord provided testimony under solemn affirmation to provide truthful testimony.

Some months before the tenancy ended, the tenant advised the landlord that there might be a rodent (mice) problem in the rental unit. A problem was not apparent on inspection by a pest control professional, but soon after it became obvious and of great concern to the tenant, who, after consulting with the landlord, tried to rid the mice on her own, but then determined she could not and had the problem remedied by an exterminator, for which she paid \$204.75, and for which she provided a receipt. The landlord's position is that the problem could have simply been remedied with a box of poison for such pests.

Some months before the tenancy ended the tenant dealt with a plumbing problem which was the apparent result of tree roots growing inside the drainage system, causing the sewer to back up, resulting in some water in the house. The tenant notified the landlord after she had the blockage remedied by a contractor for which she paid \$243.00, and for which she provided a receipt. The landlord's position is that she was not notified of a plumbing problem, and had she been, she would have dealt with it differently.

The tenancy started August 1, 2003 and ended August 31, 2008. An End of Tenancy move out inspection report was completed on August 31, 2008. The only remarkable aspect of the move out inspection was that it was noted the closet mirror door had a, "crack in corner". In spite of this, the Landlord does not hold the tenant responsible for this observation, in Box Z of the Inspection Report, and the tenant signs the report that they agree the report fairly represents the condition of the rental unit. The tenant is quickly refunded the full amount of the security deposit, minus the interest owed in the amount of \$31.82, which both parties put down to simple oversight. During the hearing, the landlord agreed she owed the tenant the interest in the amount of \$31.82 and was satisfied to forward this to her.

Five (5) weeks after the landlord noted the damage to the closet mirror door, and after the tenants had moved, and after the tenants were refunded the security deposit in full, the landlord sought to obtain an estimate for the replacement of the damaged door, in

the amount of \$470. The landlord did not provide a receipt for a new door, but provided an e-mail dated October 05, 2008 which represents the estimate for a new door.

Analysis

I am guided by the following: Residential Tenancy Regulation

Repairs 8

(1) Landlord's obligations:

(a) The landlord must provide and maintain the residential property in a reasonable state of decoration and repair, suitable for occupation by a tenant. The landlord must comply with health, safety and housing standards required by law.

(b) If the landlord is required to make a repair to comply with the above obligations, the tenant may discuss it with the landlord. If the landlord refuses to make the repair, the tenant may make an application for dispute resolution under the *Residential Tenancy Act* seeking an order of the director for the completion and costs of the repair

(2) Tenant's obligations:

(a) The tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. The tenant must take the necessary steps to repair damage to the residential property caused by the actions or neglect of the tenant or a person permitted on the residential property by that tenant. The tenant is not responsible for repairs for reasonable wear and tear to the residential property.

(b) If the tenant does not comply with the above obligations within a reasonable time, the landlord may discuss the matter with the tenant and may make an application for dispute resolution under the *Residential Tenancy Act* seeking an order of the director for the cost of repairs, serve a notice to end a tenancy, or both.

(3) Emergency repairs:

(a) The landlord must post and maintain in a conspicuous place on the residential property, or give to the tenant in writing, the name and telephone number of the designated contact person for emergency repairs.

(b) If emergency repairs are required, the tenant must make at least two attempts to telephone the designated contact person, and then give the landlord reasonable time to complete the repairs.

(c) If the emergency repairs are still required, the tenant may undertake the repairs, and claim reimbursement from the landlord, provided a statement of account and receipts are given to the

landlord. If the landlord does not reimburse the tenant as required, the tenant may deduct the cost from rent. The landlord may take over completion of the emergency repairs at any time.

(d) Emergency repairs must be urgent and necessary for the health and safety of persons or preservation or use of the residential property and are limited to repairing

- (i) major leaks in pipes or the roof,
- (ii) damaged or blocked water or sewer pipes or plumbing fixtures,
- (iii) the primary heating system,
- (iv) damaged or defective locks that give access to a rental unit, or
- (v) the electrical systems.

On reviewing all the evidence I find both parties appeared to always have acted in good faith during the tenancy, but not to the full extent of their respective responsibilities as landlord and tenant.

On reflection of the evidence I find the tenant, with good intentions, was quick to take matters into her own hands in respect to the mice problem; but eventually, would most likely have been able to recover the cost of extermination from the landlord, in one way or another. In this respect I find the tenant is entitled to recovery of **\$204.75**.

On reflection of the evidence I find the tenant, again, with good intentions, was quick to take matters into her own hands in respect to the blocked plumbing by the tree root, and incurred costs which either may have, or may have not been borne by the landlord, had the tenant made the concerns apparent to the landlord before having work done and paying for the work. The tenant is not entitled to this part of her claim.

During the hearing, the landlord concurred my finding that the tenant is owed the interest for the security deposit in the amount of **\$31.82**.

I prefer the document evidence, and the facts as agreed to by the parties, in respect to the closet mirror door. The condition of the mirror door was noted in the End of Tenancy inspection, but it was not noted by the landlord, in Box Z, as an item for which the tenant was responsible, nor was it an issue between the parties to negotiate a resolve prior to the landlord refunding the tenants their security deposit in full. I find the evidence supports the tenant is not responsible for the cost of the mirror door.

The tenant is entitled to the recovery of the filing fee in the amount of **\$50**.

I decline to award the landlord the cost of filing her application.

Conclusion

I grant the tenant an order under section 67 for the total amount of **\$286.57**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated February 03, 2009