



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNR, MND, MNDC, MNSD, FF

Introduction

This matter dealt with an application by the Landlords for a monetary order for unpaid rent and a loss of rental income, for compensation for damages to the rental unit, to recover the filing fee for this proceeding and to keep the Tenant's security deposit.

The Landlords said that the Tenant was served in person with a copy of the Application and Notice of Hearing on or about July 8, 2009 and that he signed a document stating that he received it. The Landlords also claimed that they tried to serve some of their documentary evidence on the Tenant at his forwarding address on October 1, 2009 however, he was no longer residing at that address. The Landlords said that the Tenant was served with most of the evidence upon which they are relying in July 2009.

Issues(s) to be Decided

1. Are there arrears of rent and if so, how much?
2. Are the Landlords entitled to compensation for damages and if so, how much?
3. Are the Landlords entitled to keep the Tenant's security deposit?

Background and Evidence

This tenancy started on February 1, 2006 and ended on or about June 12, 2009 when the Tenant moved out. Rent was \$675.00 per month. The Tenant paid a security deposit of \$337.50 at the beginning of the tenancy.

The Landlords said that the rental unit was newly renovated prior to the tenancy and although there was one tenant who lived in the rental unit prior to this Tenant, the rental unit was in good condition. The Landlords provided a copy of a move in condition inspection report completed on February 1, 2006 and the Tenant signed his approval that the rental unit was generally in good condition and everything had been repaired.

At the beginning of the tenancy, the Tenant had a co-Tenant, however, in May of 2007, the co-Tenant caused some damage to the rental unit and the Tenant had him removed by the RCMP. On August 3, 2007, one of the Landlords and their witness went to the rental unit and made a list of the damages which were then estimated at \$5,000.00. The Tenant told the Landlords that he would assume responsibility for repairing the

damages, however when one of the Landlords and their witness returned on August 23, 2007, they claimed that the repairs had been poorly done and the Tenant was advised to have them done professionally. The Tenant advised the Landlords that he could get professional help and as a result the Landlords said they allowed the Tenant to continue to reside there provided he continued to repair the damages.

The Landlords said that when the Tenant dropped off his April 2009 rent, he asked them to fix a bath tub in the rental unit. As a result, the Landlords' witness went to the rental unit on April 6, 2009 for the purpose of making a list of repairs and providing the Landlords with an estimate. The Landlords' witness said that he was familiar with the rental property as he had done the renovations to it prior to it being used as a rental property. The Landlords' witness said that he had viewed the rental unit prior to the Tenant moving in and noted that aside from the carpets being dated and the countertops had some wear, the rental unit was in good condition.

The Landlords' witness claimed that when he was at the rental unit on April 6, 2009, he noticed that some of the repairs the Tenant was supposed to do had not been done and others had been done poorly. He also claimed that the main entrance door and a bedroom window were covered in OSB board, the kitchen floor had been removed and was covered with a mixture of laminate and linoleum flooring and ½ of the kitchen cupboards and range hood fan had been removed. The Landlords' witness said the Tenant had removed the stove and had placed the refrigerator outside on the deck. He claimed that the Tenant had also moved plugs, switches and plumbing, had removed siding and soffits from the exterior, and had cut holes in the exterior for ventilation. The Landlords' witness also claimed that in one of the bedrooms, the Tenant had covered the floors and walls in plastic and was growing marijuana plants (for which he had a permit). In a letter to the Landlords, the Landlords' witness detailed his findings and estimated that it would cost \$18,440.00 to make all of the repairs.

The Landlords admitted that the Tenant was given permission to grow his marijuana outside in a shed but was specifically told not to grow it inside due to the smell and the moisture. The Landlords claimed that the Tenant cut holes through the rental unit walls for ventilation of the marijuana growing inside. However, the Landlords also claimed that the Tenant had stopped using an oil furnace in the rental property and was using a wood stove which was inadequate to keep humidity levels down. Consequently, the Landlords argued that the Tenant's growing marijuana in the rental unit and not adequately controlling the humidity resulted in mould growth in the rental unit.

Pursuant to an order in a previous dispute resolution proceeding, the Landlords went to the rental unit on June 11, 2009 to take photographs of the damage to the rental unit. The Landlords said that the Tenant was not there as he agreed and he had changed the locks. Consequently the Landlords took photographs of the exterior damage as well as

a picture of a hole in the side of the rental unit through which marijuana plants could be seen. The Landlords said they left a Notice of Entry posted to the door but returned a few days later when they got a call from a neighbour who said she could hear the water pump running and was concerned the Tenant had vacated the property. The Landlords said they arrived with their witness and a member of the RCMP to find that the Tenant had abandoned the rental unit and caused further damages including removing an exterior door, destroying a bedroom wall, leaving a substantial amount garbage behind and leaving the water running.

The Landlords provided a number of photographs showing the condition of the interior and exterior of the rental unit. The Landlords said they had their witness prepare another estimate to repair the new damages which amounted to a further \$5,382.00. The Landlords also provided a letter from an electrician who claimed that he inspected the wiring in the rental unit in mid-August 2009 and estimated that it would cost approximately \$5,000.00 to repair the following damages caused by the Tenant's tampering:

- Many wires had been removed and spliced without electrical boxes;
- power had been taken out to the shed;
- a wall had been removed and the wiring shoved into the ceiling and buried live;
- wiring was coming out of an electrical box to feed power to an exhaust fan cut into the trailer's side;
- many light fixtures were broken or missing;
- the telephone line was cut and ripped out of the junction box;
- the thermostat for the furnace was missing

The Landlords also claimed that during the tenancy, they agreed that the Tenant could install a wood burning stove provided that he paid for one-half of the installation costs. The Landlords said that the Tenant agreed but never reimbursed them for his share which amounted to \$586.59. The Landlords provided an invoice in support of this claim. The Landlords also claimed that the Tenant did not pay rent for June 2009 in the amount of \$675.00.

Analysis

RTB Policy Guideline #3 – Claims for Rent and Damages for Loss of Rent states that a Landlord may elect to end a tenancy and sue the tenant for loss of rent. The damages to which a Landlord is entitled is an amount sufficient to compensate the Landlord for any loss of rent up to the earliest time the Tenant could have legally ended the tenancy. Under section 45 of the Act, a Tenant of a month-to-month tenancy must give one clear months notice. Consequently, the earliest the Tenant could have ended the tenancy



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

(once he got the 10 Day Notice) would have been July 31, 2009. As a result, I find that the Landlords are entitled to recover loss of rental income for June and July, 2009.

Section 37 of the Act says that at the end of a tenancy, a Tenant must leave a rental unit reasonably clean and undamaged except for reasonable wear and tear. RTB Policy Guideline #1 at p. 2 says that any changes to the rental unit not explicitly consented to by the landlord must be returned to the original condition before vacating or else the landlord may do so and claim the costs against the Tenant.

I find that the Tenant was served with a copy of the itemized breakdown of the Landlords' claim for damages to the rental unit but did not provide any evidence to contradict those claims. Consequently, I find that during the tenancy the Tenant made a number of alterations to the rental unit without the Landlords' explicit consent including but not limited to cutting holes in the side of the trailer, re-wiring, re-plumbing, removing and replacing flooring, removing doors, walls, a window, electrical outlets, light fixtures, a stove and hood fan, ceiling tiles and kitchen cupboards. I find that at the end of the tenancy, there were damages to the interior and exterior of the rental unit that were not repaired or that were improperly repaired. I also find that the Tenant left a substantial amount of garbage outside and spoiled food inside. I further find that there was an agreement that the Tenant would reimburse the Landlords for one-half the cost of installing a woodstove which the Tenant has failed to pay.

I find that the Landlords are not entitled to recover \$400.00 for servicing a furnace as this falls under s. 32 of the Act as a responsibility of the Landlords (to maintain the rental property). I also find that the Landlords are not entitled to recover amounts for a new refrigerator as there is no evidence that it was not in working order or alternatively, that it could not be salvaged. However, I find that the Landlords are entitled to recover the following amounts:

Loss of rent:	\$1,350.00
Repairs to exterior:	\$1,600.00
Glass replacement:	\$250.00
Drywall finishing:	\$1,000.00
Rebuild Closet:	\$480.00
Rebuild bathroom wall:	\$560.00
Kitchen cupboards:	\$2,000.00
New Floors:	\$3,500.00
Repairs to vanity:	\$300.00
Re-plumb for washer:	\$700.00
Building permit:	\$200.00
Replace front door:	\$600.00
Garbage removal:	\$1,000.00



Dispute Resolution Services

Page: 5

Residential Tenancy Branch
Ministry of Housing and Social Development

Paint interior:	\$5,000.00
Rewiring:	\$2,500.00
Replace stove:	\$750.00
Remove Shed:	\$750.00
Replace door lock:	\$75.00
Repair bedroom wall:	\$457.00
Refill oil tank:	\$600.00
Replace furnace door:	\$150.00
Repair eaves troughs:	\$200.00
Wood stove installed:	\$586.59
Filing fee:	<u>\$100.00</u>
Subtotal:	\$24,708.59

I order the Landlords pursuant to s. 38(4) and 72 of the Act to keep the Tenant's security deposit of \$337.50 and accrued interest of \$11.79 in partial payment of the damage award. The Landlords will receive a monetary order for the balance owing of \$23,684.30.

Conclusion

A monetary order in the amount of **\$24,359.30** has been issued to the Landlords and a copy of it must be served on the Tenant. If the amount is not paid by the Tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia and enforced as an Order of that Court.

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: October 26, 2009.

Dispute Resolution Officer