



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR, MNDC, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act*. The landlord applied for a monetary order for loss of income, for unpaid utilities, to replace appliances, remove garbage, repair furnace and for the filing fee.

Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. Both parties represented themselves.

As both parties were in attendance I confirmed service of documents. The parties confirmed receipt of each other's evidence. I find that the parties were served with evidentiary materials in accordance with sections 88 and 89 of the *Act*.

Both parties provided extensive documentary evidence. All parties' testimonies and evidence have been considered in the making of this decision. As this matter was conducted over 74 minutes of hearing time, I have considered all the written evidence and oral testimony provided by the parties but have not necessarily alluded to all the evidence and testimony in this decision.

Issues to be decided

Is the landlord entitled to a monetary order for loss of income, for unpaid utilities, to replace appliances, remove garbage, repair furnace and for the filing fee?

Background and Evidence

The tenancy started in February 2017 and ended on or about November 20, 2017. The monthly rent was \$1,600.00 due on the first of the month and did not include utilities. The tenant agreed that she did not pay a security deposit to the landlord.

The tenant stated that right from the start of tenancy the furnace did not work properly. In his written submission the landlord stated that he had purchased the oil tank sometime in 2014 and had turned it upside down to paint the underside of the tank. The tank was empty. The landlord stated that the previous tenant did not put in any oil as they could not afford it. The landlord stated that at the start of this tenancy the filter was clean as it had not been used by the previous tenant and the tank was empty.

The landlord requested the tenant to put in some oil and he would get the furnace serviced and running. The parties agreed that the landlord gave the tenant a \$100.00 voucher towards the cost of oil. The tenant stated that the voucher could only be redeemed if she put in \$600.00 worth of oil and therefore she did not use the voucher.

The tenant stated that her boyfriend at that time, JP, offered to put some oil into the tank. The tenant agreed that the oil that was put into the landlord's tank was not purchased from a supplier but came from a tank owned by JP. The tenant acknowledged that the furnace had started to work but shortly after, in March 2017 it stopped working.

The tenant informed the landlord and he hired a furnace company to repair the furnace. The furnace company informed the landlord that the fuel pump needed to be replaced. The part was ordered and the company returned to install the part. The tenant informed the landlord that the furnace was working well. The landlord filed a copy of the invoice into evidence.

In early April, the tenant reported the same problem. The landlord arranged for the furnace company to attend. The technician reported to the landlord that he had replaced the fuel filter and nozzle and had freed up the pump which had ceased. The technician reported that the problems were caused by old fuel.

On April 10, 2017 the landlord informed the tenant of the technician's findings, by email. The landlord stated that the oil that was put into the tank was old and was breaking down. A strong smell of turpentine emanated from the oil which is an indication that the oil is breaking down.

The landlord urged the tenant to have the oil removed and replaced with store bought certified oil. The landlord agreed to service the furnace one more time after the tenant replaced the old oil.

The tenant replied by email and stated that the oil left behind by the previous tenants was contaminated. The landlord explained that the previous tenant did not use the tank as they could not afford to fill it with oil. The landlord also added that at the start of this tenancy the filter was brand new and would have been stained if the previous tenants had used the tank.

The landlord asked the tenant multiple times to empty the oil that she had placed in the tank and fill in some certified oil if she wanted the furnace to function properly. He also cautioned her about mixing certified oil in with the old oil which would not resolve the problem. The landlord filed a copy of the second invoice that he had to pay to replace the filter and nozzle and free the pump. No further communication regarding the heating or the furnace was filed into evidence.

The next copy of a text message from the tenant to the landlord that was filed into evidence is dated October 15, 2017. In this message, the tenant asked the landlord if he was going to service the furnace and get the heating in the rental unit going. The landlord replied reminding the tenant that unless the old fuel was removed and replaced with new fuel, the furnace would not work efficiently and would require service to unplug the nozzle and clean the filter every two weeks.

The tenant did not get back to the landlord regarding removal of the old oil and on or about November 20, 2017, the tenant moved out without informing the landlord or providing any notice. The tenant stated that since the landlord was refusing to fix the furnace she decided to move out.

The landlord stated that the tenant moved out without providing proper notice. The tenant stated that she informed the landlord by email on October 15, 2017 that she would be moving out. The text message from the tenant on October 15, 2017 asks the landlord if he is going to repair the furnace. The landlord replied informing her that she had to remove the old oil before he would contact the furnace company as they had already told him that replacing a filter and nozzle was a waste of his money if the old oil was not removed.

The tenant complained about the lack of heat and in a text message dated October 29, 2017; the landlord let her know that she should look for another place if she was unhappy in the rental unit. In a note dated November 25, 2017, the tenant informed the landlord that she had moved out and had left the back door unlocked and had left the key to the rental unit in the bedroom.

The landlord stated that the unit was left cluttered with the tenant's unwanted belongings and he had to hire a truck to dispose of the items. The landlord filed a note from a person who helped him dispose of the tenant's items. The tenant stated that she left the place neat and tidy and was not responsible for the landlord's claim for the cost of disposal of the tenant's items.

In his written submission the landlord stated that after the tenant moved out, he emptied the tank of the old fuel and replaced it with certified fuel. During the hearing the landlord informed the tenant that he had the old fuel that was removed from the oil tank stored away waiting for the tenant to pick it up.

The landlord stated that he had to have the furnace company attend to clean filters and unplug the pump which was clogged with contaminants from the fuel. The landlord stated that upon filling the tank with certified oil almost a year ago, the furnace has worked without any problem.

The landlord filed copies of the invoices that he paid. The first one dated March 28, 2017 indicates that a new pump was installed at a cost of \$309.75. The second invoice is dated April 17, 2017 and it for \$141.75. The invoice indicated that the nozzle and filter were changed. The note on the invoice states:

"Pump was siezed – contaminated fuel. Pump may be damaged if problem persists"

The landlord also filed a copy of the invoice for the service of the oil tank that he had to carry out at the end of tenancy. The problems were the same and the landlord incurred a cost of \$131.00 to clean the filter and nozzle and free the pump.

The landlord is claiming the cost of repairs to the furnace during the tenancy. The landlord reiterated that he always maintained the furnace by having it professionally serviced on a regular basis.

The landlord stated that he was unable to find a tenant for December 2017 but found one for January 2018. The landlord is claiming loss of income for the month of December 2017.

The landlord stated that the tenant disposed of his washer and dryer without his permission and he had to replace these items along with a coil for the stove. The tenant agreed that she had disposed of the landlord's washer and dryer because it occupied space in the dining area. The landlord testified that he had purchased the washer brand new five years ago and had purchased a second hand dryer.

Both appliances were hooked up and functional. The landlord is claiming the cost of replacing these appliances.

The landlord also stated that the tenant's water bill was not paid and is claiming \$241.50. The landlord filed a copy of the water bill.

The landlord has filed a claim as follows:

1.	Unpaid water bill	\$241.71
2.	Loss of income for December 2017	\$1,600.00
3.	Replace furnace pump	\$309.75
4.	Furnace repairs	\$141.75
5.	Furnace repairs	\$131.25
6.	Disposal of tenant's items	\$177.28
7.	Stove parts	\$78.35
8.	Replace washer and dryer	\$1,228.86
9.	Filing fee	\$100.00
	Total	\$4,008.95

Analysis

The landlord's monetary claim is assessed as follows:

1. Unpaid Water bill - \$241.71

The landlord filed a copy of the water bill dated December 01, 2017 for an outstanding amount of \$241.71. As per the tenancy agreement the tenant was responsible for the cost of water. Since the tenant moved out on or about November 25, 2017, I find that she is responsible for this water bill which is for water usage prior to December 01, 2017.

2. Loss of income - \$1,600.00

Section 45 of the *Residential Tenancy Act*, states that a tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice and is the day before the day in the month that rent is payable under the tenancy agreement.

In this case the tenant informed the landlord via text message on November 25, 2017, that she had moved out and had left the back door open for the landlord to retrieve the keys that she had placed in the bedroom.

The tenant testified that she informed the landlord that she would be moving out on October 15, 2017 and the landlord replied that she could move if she was not happy and she took this as having given notice which was accepted by the landlord.

I have reviewed the relevant text messages and based on the testimony of both parties and the documents filed into evidence, I find that the tenant moved out without providing at least one month's notice to the landlord. This resulted in a loss of income for the landlord for the month of December 2017. I find that the tenant is liable for this loss and I award the landlord his claim of \$1,600.00.

3. Replace furnace pump - \$309.75
4. Furnace repairs - \$141.75
5. Furnace repairs - \$131.25

The landlord has provided adequate evidence to support his testimony that the tenant used old oil as fuel for the furnace which resulted in the furnace ceasing up. The tenant agreed that she had used fuel provided by JP which was obtained from an oil tank in his house and not from an oil supplier.

Even though I accept the landlord's testimony regarding the source of the problems with the furnace, I find that the landlord must cover the cost of installing a new pump. Accordingly the landlord's claim for \$309.75 is dismissed.

However I find that the tenant is responsible for the additional repairs to the furnace as the problems were brought on by the use of old oil that was breaking down. I award the landlord his claim for items #4 and #5.

6. Disposal of tenant's items - \$177.28

The tenant denied having left items behind in the rental unit. The landlord filed a written statement of a person who helped the landlord dispose of the items and an invoice dated November 30, 2017 for the amount of \$177.28.

Even though the tenant denied having left items behind, based on the invoice and on a balance of probabilities, I find that it is more likely than not that the landlord incurred this expense on November 30, 2017 to remove items that were left behind by the tenant when she moved out on November 25, 2017. I find that the landlord is entitled to his claim.

7. Stove parts - \$78.35

Residential Tenancy Policy Guideline #1 addresses **Landlord & Tenant – Responsibility for Residential Premises**.

In part, this guideline provides as follows:

The tenant is not responsible for reasonable wear and tear to the rental unit.

Reasonable wear and tear refers to natural deterioration that occurs due to aging and other natural forces, where the tenant has used the premises in a reasonable fashion. An arbitrator may determine whether or not repairs or maintenance are required due to reasonable wear and tear or due to deliberate damage or neglect by the tenant.

In this case I find that the landlord is claiming the cost of replacing an element on the stove. I find that regular use of the stove may have resulted in the breakdown of the coil. Accordingly the tenant is not responsible for the cost of replacing the coil.

8. Replace washer and dryer - \$1,228.86

The tenant agreed that at the start of tenancy there was a washer and dryer that were hooked up and functional. The tenant also agreed that she removed the appliances and disposed of them without the landlord's consent. The landlord has filed an invoice for the cost he incurred to replace the washer and dryer. Based on the tenant's testimony I find that she is responsible for the prorated cost of replacing the appliances.

Section 40 of the *Residential Tenancy Policy Guideline* speaks to the useful life of an item. I will use this guideline to assess the remainder of the useful life of the washer and dryer. As per this policy, the useful life of a washer and a dryer is 15 years

The landlord stated that he had purchased the dryer second hand and therefore it is more likely than not that the dryer had outlived its useful life. Accordingly, the landlord's claim for the cost of the dryer is dismissed.

The landlord purchased the washer brand new and it was five years old at the end of tenancy and therefore by the end of the tenancy the washer had ten years of useful life left. Based on the invoice filed into evidence, the cost of the washer is \$651.52. I find that the landlord is entitled to \$434.30 which is the prorated value of the remainder of the useful life of the washer.

9. Filing fee - \$100.00

The landlord has proven most of his claim and therefore I award the landlord the recovery of the filing fee.

Overall the landlord has established a claim as follows:

1.	Unpaid water bill	\$241.71
2.	Loss of income for December 2017	\$1,600.00
3.	Replace furnace pump	\$0.00
4.	Furnace repairs	\$141.75
5.	Furnace repairs	\$131.25
6.	Disposal of tenant's items	\$177.28
7.	Stove parts	\$0.00
8.	Replace washer and dryer	\$434.30
9.	Filing fee	\$100.00
	Total	\$2,826.29

The landlord has established a claim of \$2,826.29. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for this amount. 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 **\$2,826.29**.

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: November 13, 2018

Residential Tenancy Branch