



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Code MNR, MND, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords filed under the Residential Tenancy Act (the “Act”), for a monetary order for unpaid utilities, for damages to the unit and for an order to retain the security deposit in partial satisfaction of the claim.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Preliminary and procedural issues

In this case, the landlords filed their application for dispute resolution on July 30, 2019, claiming the amount of \$5,200.00. The monetary work sheet dated August 11, 2019, in support of their application shows the amount claimed was \$1,760.30 for damages, and loss of rent of \$2,200.00 for a total amount of \$3,960.30. There are no details for the difference between the amount claimed of \$5,200.00 and actual amount claimed of \$3,960.30.

On November 6, 2019 the landlords filed a revised monetary worksheet increasing the amount of their monetary worksheet to \$5,397.27 and loss of rent of \$2,200.00 for a total amount claimed of \$7,597.27.

I find the landlords did not file an amendment to their application increasing their original claim. A monetary worksheet is not an amendment. Further, I find it is an

unreasonable delay as these were all items they could have filed with their original application, or within a reasonable time thereafter.

Therefore, I will only consider the items in the original monetary worksheet filed on August 11, 2019, and the loss of rent that was in their application.

Issues to be Decided

Are the landlords entitled to a monetary order for unpaid utilities?

Are the landlords entitled to monetary compensation for damages?

Are the landlords entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The parties agreed that they entered into a fixed term tenancy which began on July 15, 2018 and was to expire on July 15, 2019. Rent in the amount of \$2,200.00 was payable on the first of each month. The tenant paid a security deposit of \$1,100.00. The tenancy ended on July 15, 2019.

The parties agreed a move-in and move-out condition inspection report was completed.

The landlords claim as follows:

a.	Oil tank fuel	\$ 1,159.82
b.	Unpaid utilities	\$ 196.79
c.	Disposal fees, green materials, leave and mattress	\$ 43.80
d.	Fuel cost for going to dump and materials	\$ 60.00
e.	Blind replacement	\$ 80.84
f.	Drywall mud, paint	\$ 150.91
g.	Cleaning supplies	\$ 68.14
h.	Loss of rent	\$ 2,200.00
i.	Filing fee	\$ 100.00
	Total claimed	\$ 3,960.30

Oil tank fuel

The landlord testified that the tenant was provided a full tank of oil at the start of the tenancy; however, it was left empty at the end of the tenancy. The landlord stated they had to pay to have the oil tank filled. The landlords seek to recover the cost of the oil in the amount of \$1,159.82. Filed in evidence is a copy of the oil invoice.

The tenant does not deny the oil tank was not filled at the end of the tenancy.

Unpaid utilities

The landlord testified that the tenant did not pay the final utility invoice. The landlords seek to recover the cost of \$196.79. Filed in evidence is a copy of the statement of user rates date August 20, 2019.

The tenant testified that they paid the amount of \$193.26, in June 2019.

Disposal fees, green materials, leaves and mattress

The landlord testified that the tenant was required by their tenancy agreement for the removal of grass clippings, and leaves. The landlord stated that the tenant left behind between 15 to 20 bags of green waste. The landlord stated that there was also some garbage left and some broken furniture items, such as a chair. Filed in evidence are photographs, which shows a truck full of green waste and items left behind.

The landlord testified that the tenant was also provided a mattress to use, which was left dirty and stained and had to be disposed.

Fuel cost for going to dump and materials

The landlord testified that they should be entitled to recover their fuel cost for having to drive to the dump to dispose of the items that was the tenant's responsibility. The landlords seek to recover the fuel cost of \$60.00.

Blind replacement

The landlord testified that the master bedroom blind was missing at the end of the tenancy. The landlords seek to recover the cost of the missing blind in the amount of \$80.84.

The tenant testified that they took the blind down and it was left in the laundry room.

The landlord argued there was no blind found in the laundry room at the end of the tenancy

Drywall mud, paint

The landlord testified that the tenant caused damage to the walls. The landlord stated there were cat scratches on the wall, and on the French doors. The landlord stated that there was also a big hole drilled in the master bedroom wall. The landlord stated that they had to buy drywall mud and paint to fix the damage. The landlords seek to recover the cost of the materials in the amount of \$150.91.

The tenant testified that they did leave tack holes and they had attached a tv mount to the wall. The tenant stated they are not sure if there were any cat scratches.

Cleaning supplies

The landlord testified that the tenant had a cat in the rental unit contrary to their tenancy agreement and they had to purchase a pet urine cleaner to neutralize the enzyme of the cat urine. The landlords seek to recover the cost of the pet cleaner product in the amount of \$20.15.

The landlord testified that the tenant did not properly clean the rental unit and they spent a lot of time cleaning. The landlord stated that the appliances were left dirty, the cupboards were dirty, the floors were very dirty, and the entire unit needed to be cleaned. The landlords seek to recover their cleaning supplies in the amount of \$47.99.

Filed in evidence are before and after photographs of the rental unit.

The tenant testified that they took care of a cat for a short period of time and that they did not notice any smell.

The tenant testified that they basically cleaned everything. The tenant stated that the floors were always a concern and they were left in a better condition than received.

Loss of rent

The landlord testified that due to the condition the rental unit was left in by the tenant, that they were unable to advertise the premise for rent until the rental unit was cleaned and repaired.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlords have the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Oil tank fuel

Under Residential Tenancy Policy Guideline 1, the tenant must leave oil tanks in the same condition that they found them at the start of the tenancy.

In this case, the oil tank was full at the start of the tenancy and left empty at the end of the tenancy, I find the tenant has breached the Act, when they failed to fill the oil tank at the end of the tenancy, and this caused losses to the landlords. Therefore, I find the landlords are entitled to recover the cost of the oil in the amount of **\$1,159.82**

Unpaid utilities

I am satisfied that the tenant did not pay the outstanding utilities. The statement of user rates, filed in evidence shows the last payment the tenant made on the account was April 1, 2019, not in June 2019. I find the tenant breached the Act, when they failed to pay the utilities, and this caused losses to the landlords. Therefore, I find the landlords are entitled to recover the cost of the utilities in the amount of **\$196.79**.

Damages

How to leave the rental unit at the end of the tenancy is defined in Part 2 of the Act.

Leaving the rental unit at the end of a tenancy

37 (2) When a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

Disposal fees, green materials, leaves and mattress

In this case, I am satisfied that the tenant was responsible for the disposal of the leaves and lawn clippings. This was a term in the tenancy agreement. I find the tenant breached the tenancy agreement when they failed to dispose the above noted items. Therefore, I find the landlords are entitled to recover the cost of **\$35.80**

I am not satisfied that the tenant is responsible for the disposal of the mattress as it is owned by the landlord. Although the photographs show some staining this simply could be from reasonable use and the aging process. Therefore, I dismiss this portion of the landlords claim.

Fuel cost for going to dump and materials

I am satisfied that the tenant was responsible for the majority of the disposal costs. The evidence supports there were four different charges for dump fees, I find a reasonable amount for fuel cost is 75% of the fuel cost as this would represent three of the four trips to the facility. Therefore, I find the landlords are entitled to recover fuel costs in the amount of **\$45.00**.

Blind replacement

The tenant acknowledged they removed the blind from the window. The evidence of the tenant was that it was left in the laundry room. The evidence of the landlord was they did not find the blind in the laundry room.

When a tenant removes items that were installed in the rental unit at the start of the tenancy and do not reinstall them prior to vacating, and those items are not found by the landlord. I find the tenant is responsible for the loss of the items.

I find the tenant breached the Act when they failed to have the blind installed and as a result the landlords suffered a loss as the blind was not found. Therefore, I find the landlords are entitled to recover the cost of the missing blind in the amount of **\$80.84**.

Drywall mud, paint

The evidence of the tenant was that they attached a TV mount to the wall and did not fix the holes. I accept the evidence of the landlord that the cat caused damage to the walls by scratching as the tenant was unsure if such damage occurred. I find the tenant breached the Act, when they failed to repair the walls. I find the supplies purchased by the landlords are reasonable. Therefore, I find the landlords are entitled to recover the cost of the supplies in the amount of **\$150.91**.

Cleaning supplies

The evidence of both parties was that the tenant had an unauthorized cat in the rental unit. The evidence of the landlord was that they had to purchase a cleaning product to neutralize the smell of the cat urine. I find the tenant breached the Act, when they had an unauthorized cat in the unit. I find it reasonable that the landlord is entitled to recover cleaner cost that were necessary to neutralize the animal smell. Therefore, I find the landlords are entitled to recover the cost of the cleaner in the amount of **\$20.15**.

The move-out condition inspection shows that the rental unit needed cleaning. I find the amount the landlords are claiming for cleaning supplies is reasonable. I find the tenant breached the Act, when they failed to clean the items in the move-out condition inspection report. Therefore, I find the landlords are entitled to recover the amount of **\$47.99**.

Loss of rent

In this case, there was no new renters scheduled to move into the premise after the tenants vacated. I am not satisfied that the rental unit was left in such a condition that it was not showable or rentable. I find it was a personal choice of the landlords to delay advertising the unit. While I accept there was minor repairs such as painting and cleaning. This does not support it was unrentable or unviewable.

I find that the landlords have established a total monetary claim of **\$1,837.30** comprised of the above described amounts and the \$100.00 fee paid for this application.

I order that the landlords retain the security deposit of **\$1,100.00** in partial satisfaction of the claim and I grant the landlords an order under section 67 of the Act for the balance due of **\$737.30**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The landlords are granted a monetary order and may keep the security deposit in partial satisfaction of the claim and the landlords are granted a formal order for the balance due.

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: December 12, 2019

Residential Tenancy Branch