



Dispute Resolution Services

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

Decision

Dispute Codes:

MND

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application to retain all or part of the security deposit. At the hearing both parties acknowledged that they understood that this hearing related to damages done to the rental unit, therefore the Landlord's was allowed to make an application for a monetary Order for damage to the rental unit. Both parties acknowledge that the security deposit has already been returned, so this portion of the Landlord's application is dismissed.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present oral evidence, to cross-examine the other party, and to make submissions to me.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to a monetary order for damage to the rental unit.

Background and Evidence

The Landlord and the Tenant agree that this tenancy began on August 01, 2007 and that it ended on May 31, 2008. The parties agree that they had a written tenancy agreement that required the Tenant to pay monthly rent of \$1,000.00 and that the Tenant paid a security deposit of \$500.00, which has since been returned to the Tenant.

A condition inspection report was not completed at the beginning of this tenancy or at the end of the tenancy, although they are required by sections 23 and 35 of the *Residential Tenancy Act (Act)*.

The Landlord is seeking compensation, in the amount of \$766.68, for the cost of painting the rental unit. This claim includes \$300.00 in labour, which she paid directly to her grandchildren.

The Landlord stated that the entire rental unit was painted just prior to the beginning of the tenancy. She stated that the walls in the rental unit needed to be repainted because the Tenant smoked in the rental unit throughout her tenancy.

The Landlord submitted a letter from a person who she sometimes uses for repairs, who stated that he “painted and repaired home before this tenant moved in in 07”. He stated that he inspected the rental unit at the end of the tenancy, at which time he noted that the entrance hallway, the living room, and the baseboards needed to be repainted.

The Tenant stated that only one room in the rental unit, which she refers to as the “sunroom”, had been painted at the beginning of the tenancy. She stated that the remainder of the rental unit had not been painted for several years. She acknowledged that she did smoke in the “sunroom”, but denies smoking in any other portion of the home.

The Landlord is seeking compensation, in the amount of \$514.61, to replace the carpeting on the stairs, which was originally installed in 2004. The Landlord submitted no evidence to establish that the carpet was in good condition at the beginning of the tenancy. She submitted a letter from the male who completed handiwork for her on occasion, in which he noted that the carpet needed to be replaced because of stains and odours.

The Tenant stated that the carpet was stained and damaged by animals prior to her tenancy. She submitted a letter from her boyfriend, in which he noted that the carpets were stained at the beginning of the tenancy.

Analysis

After considering all of the evidence regarding paint, I find that the “sunroom” was painted at the beginning of the tenancy. I find that the Landlord submitted insufficient evidence to establish that the remainder of the rental unit was painted at the beginning of the tenancy, or that it had been painted in the previous four years. In reaching this conclusion, I found that the letter from the person who stated that he painted the home is of little evidentiary value, as the letter does not clarify whether he painted the entire

room, as the Landlord claims, or that he painted the “sunroom” only, as the Tenant claims.

The Residential Tenancy Policy Guidelines show that the life expectancy of interior paint is four years. As the Landlord has not established that the majority of the rental unit had not been painted within four years, I find that the Landlord is not entitled to compensation for painting the majority of the rental unit.

I find that the “sunroom” did require repainting at the end of the tenancy, due to the fact that the Tenant smoked in that room. I find that the Tenant failed to comply with section 37(2) of the *Act* when she failed to repaint this room at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant’s failure to comply with the *Act*.

The evidence shows that the sunroom was painted at the beginning of the tenancy and was, therefore approximately one year old. I therefore find that the paint in the living room has depreciated by twenty-five percent, and that the Landlord is entitled to seventy-five percent of the cost of repainting the living room. The Landlord did not submit evidence that clearly establishes the cost of paint this single room, however I arbitrarily award damages in the amount of \$200.00, which I find to be reasonable compensation for painting a room.

After considering all of the evidence regarding the carpet, I find that the Landlord has submitted insufficient evidence to establish that the carpets were in good condition at the beginning of the tenancy. As the Landlord did not establish the condition of the carpets at the beginning of the tenancy, I can not conclude that the Tenant damaged the carpets during her tenancy. On this basis, I am dismissing the Landlord's application for compensation for replacing the carpet.

Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$200.00 for painting the sunroom and I grant the Landlord a monetary Order in that amount. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Date of Decision: December 09, 2008.