

Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes: FF, MNSD, MNDC

Introduction

I have been delegated the authority under Section 9.1 of the *Residential Tenancy Act* (the “Act”) to hear this matter and decide the issues.

I reviewed the evidence on the case file prior to the Hearing. The parties gave affirmed evidence to tell the truth in this Hearing and this matter proceeded on its merits.

Issue(s) to be Decided

This is the Landlords’ application for a Monetary Order for damages under the Act and compensation for loss of rent for October, 2008; to keep all of the security deposit and to recover the filing fee from the Tenant.

1. Are the Landlords entitled to compensation for loss of rent for the month of October, 2008?
2. Are the Landlords entitled to recover their out-of-pocket expenses and labour for carpet shampooing, cleaning, replacement of light bulbs and pillows?
3. Are the Landlords entitled to recover the cost of the filing fee from the Tenant?

Background and Evidence

The parties agreed on the following facts:

- The Tenancy started on August 21, 2006. Rent for the rental unit was \$1,400.00 per month, due on the first day of the month. The Tenant paid a security deposit

on August 21, 2006, in the amount of \$700.00.

- The Tenant admitted being duly served with the Notice of Hearing documents by registered mail.

Landlords' written and oral evidence

The Landlords testified that the rental unit is in the main floor of a house. The Landlords occupy the upper floor of the house. The rental unit was fully furnished, including kitchen utensils and appliances, living room furniture, bedroom furniture for two bedrooms, and a table and four chairs.

The Landlord SS testified that the Tenant was not present at the move-in inspection. The Landlord performed the inspection by herself on August 23, 2006 and provided the Tenant with a copy of the Condition Inspection Report for his reference and comments, when he moved in to the rental unit. The Landlord SS testified that the Tenant did not dispute the move-in condition report, but did not sign it.

The Landlord SS testified that the Tenant did not provide written notice that he was ending the tenancy. The Landlord stated that the Tenant gave her verbal notice in August, 2008, that he would be vacating the rental unit on September 30, 2008.

The Landlord SS stated that on September 30, 2008, at about 5:00 p.m., the Tenant asked the Landlord if he could be allowed to remain there one more night. The Landlord declined to allow the Tenant to remain in the rental suite overnight. The Landlord stated that her agent was attempting to re-rent the rental unit for October 1, 2008. The Landlord testified that the Tenant did not shampoo the carpets or clean the rental unit before he vacated the rental unit on the evening of September 30, 2008, and that as a result, she missed an opportunity to re-rent the rental unit for October 1, 2009.

The Landlord SS testified that she asked the Tenant to participate in a Move-Out Inspection, but the Tenant declined to do so. The Landlord testified that she completed the Move-Out Inspection on her own on September 30, 2008, and discovered that four pillows were missing from the rental unit.

The Landlords provided copies of the following documents into evidence:

- Condition Inspection Report;
- Copy of tenancy agreement and addendum (unsigned by Tenant);
- Photographs of the rental unit, taken after the Tenant vacated the suite, but before the Landlords cleaned the suite and shampooed the carpets; and
- An itemized list of damages claimed and proof of purchase, including:
 - \$15.37 and \$20.42 for cleaning materials
 - \$215.25 for carpet shampooing, sanitizing and scotchguarding
 - \$100.00 for maid services to clean the rental unit
 - \$93.50 for pot lighting bulbs
 - \$29.08 for two pillows

The Landlord SS testified that the carpet cleaning bill was for cleaning the carpets in the living room and master bedroom only, because the rest of the carpets need to be replaced. The Landlord SS testified that heavy furniture had to be moved in order to clean the carpets and requested \$100.00 for the Landlords' labour in moving the furniture. The Landlords' total claim for damages is \$573.62. The Landlords also applied for loss of rent for the month of October, 2008, in the amount of \$1,400.00.

The Landlord SS testified that she instructed her agent to try to rent the rental unit as quickly as possible. The Landlord testified that the rental unit was clean and ready for new tenants on October 4, 2009, but is still not rented. The Landlord stated that she has allergies and is not prepared to rent to tenants with children or pets. The Landlord also stated that the Landlords were going to renovate the suite to include a lockable door between the Landlords' suite and the rental unit.

Tenant's written and oral evidence

The Tenant testified that he did not shampoo the carpet before he left, but that he periodically vacuumed the carpets while he was living in the rental unit. He stated that the Landlord told him the carpets would be removed because of water damage from 2 occasions when the rental unit was flooded.

The Tenant testified that he was too busy to participate in the Move-In Inspection, but that he saw the Condition Inspection Report when he moved in. He did not sign it, but stated that it was correct.

The Tenant testified that he verbally advised the Landlord in mid-July, 2008, that he would be moving out of the rental unit on September 30, 2008.

In a letter submitted as evidence (not on a "without prejudice" basis), dated March 18, 2009, the Tenant's counsel submitted that the Tenant is entitled to double the amount of the security deposit because the Landlords failed to repay the security deposit, or file an application to retain the security deposit, within 15 days of the end of tenancy.

The Tenant's counsel submitted that the Tenant left the rental unit in a condition that was reasonably clean and did not require additional cleaning.

Analysis

The Tenant's counsel submitted that the Tenant was entitled to double the security deposit paid to the Landlord. This is the Landlords' application. The Tenant did not make an application for dispute resolution for double the security deposit and therefore I make no order with respect to this matter.

Are the Landlords entitled to compensation for loss of rent for the month of October, 2008?

The Landlords submitted that the rental unit was ready for occupation by another tenant on October 4, 2009. The Landlords stated that the rental unit is not re-rented, as they are considering renovating the suite, to include a lockable door separating their living space from the rental unit. The Landlords failed to provide proof that they had mitigated their loss by aggressively attempting to re-rent the suite, and I dismiss this portion of the Landlords' claim.

Are the Landlords entitled to recover their out-of-pocket expenses and labour for carpet shampooing, cleaning, replacement of light bulbs and pillows?

Based on the oral and written evidence of the parties, I accept that the Tenant did not shampoo the carpets before vacating the rental unit. Furthermore, I accept the Landlords' evidence that the invoice for the carpet shampooing was for the carpets in the living room and master bedroom only. I allow the Landlords' claim with respect to recovering their cost for shampooing the carpets. The invoice includes a charge for sanitizing and scotchguarding the carpets, in the total amount of \$105.00. I find that the Tenant is not responsible for sanitizing and scotchguarding, and I dismiss this portion of the Landlords' claim. Therefore, I find the Landlords are entitled to recover the amount of \$100.00 plus G.S.T. in the amount of \$5.00 for a total of \$105.00.

The photographs provided into evidence by the Landlords are grainy and difficult to decipher. However, photographs #1 and #6 clearly show that the carpets were not vacuumed prior to the Tenant moving out. I accept the Landlords' testimony that the Tenant did not clean the rental unit prior to leaving. The Tenant was hurried and expected to be able to stay in the rental unit until October 1, 2008. I accept that the Tenant did not have time to properly clean the unit to an acceptable standard. I allow

the Landlords' claim in the amount of \$100.00 for cleaning the rental unit and \$35.79 for cleaning supplies.

The rental unit was fully furnished. Living room and master bedroom furniture would have to be moved in order for the carpet to be shampooed. I allow the Landlords a nominal amount for labour in moving the furniture in the amount of \$20.00.

The Landlords provided evidence that they returned some light bulbs to the Tenant because they were not suitable for the pot lighting. The Landlords provided receipts for light bulbs in the amount of \$93.50. I allow this portion of the Landlords' claim.

The Tenant agreed that a copy of the move-in Condition Inspection Report was provided to him. The Tenant agreed that the Report appeared to be in order. The Tenant did not alert the Landlord to any errors contained in the Report. The Report indicates that there were pillows provided in the rental unit when the Tenant moved in. I allow the Landlords' claim with respect to the pillows, in the amount of \$29.08.

The Landlords have been partially successful in their claim and are entitled to recovery of the cost of the filing fee from the Tenant.

The Landlord has established a monetary order in the amount of \$433.37 calculated as follows:

Carpet shampooing	\$105.00
Cleaning	\$135.79
Labour for moving furniture	\$20.00
Replacement of bulbs	\$93.50
Replacement of 2 pillows	\$29.08
Recovery of the filing fee	<u>\$50.00</u>
TOTAL	\$433.37

Pursuant to Section 72(1)(b) of the Act, the Landlord may deduct the amount of \$433.37 from the security deposit. The Tenant is entitled to return of the remainder of the security deposit, plus interest accrued thereon of \$22.50, in the amount of \$289.13.

Conclusion

The Landlord is entitled to retain \$433.37 from the security deposit paid by the Tenant.

I grant the Tenant a monetary order in the amount of \$289.13 against the Landlords, representing the balance of the security deposit, plus accrued interest. This order may be served on the Landlords and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an order of that Court.

April 8, 2009
