



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MND, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for a Monetary Order for damages to the rental unit as well as to recover the filing fee for this proceeding and to keep the Tenants' security deposit.

The Landlord said he served the Tenants with a copy of the Application and Notice of Hearing by registered mail on March 17, 2009 to their forwarding address. According to the Canada Post online tracking system, a notification card was left for the Tenants on March 18, 2009 but they did not pick up the hearing package. I find that the Tenants were served as required by s. 89 of the Act and the hearing proceeded in their absence.

Issues(s) to be Decided

1. Is the Landlord entitled to compensation for damages and if so, how much?
2. Is the Landlord entitled to keep the Tenants' security deposit?

Background and Evidence

This tenancy started on April 1, 2008 and ended on March 3, 2009 when the Tenants moved out. Rent was \$750.00 per month. The Tenants paid a security deposit of \$375.00 at the beginning of the tenancy.

The Landlord said he did a move in inspection with one of the Tenants on March 31, 2008 and she gave her written acknowledgement as to the condition of the unit as detailed on the report that day. The Landlord said he also did a move out inspection with the same Tenant at the end of the tenancy but she refused to sign the report. The Landlord said he completed the report and sent the Tenants a copy. The Landlord also provided photographs of the condition of the rental unit after the Tenants moved out.

The Landlord said the Tenants left the rental unit damaged and unclean at the end of the tenancy. In particular, he claimed the Tenants were responsible for the following:

- Leaving a substantial amount of garbage, some furnishings and personal possessions inside and outside the rental unit which had to be removed;

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- Leaving the refrigerator, stove top and oven uncleaned;
- Damaging the walls with staple and nail holes and 2 sided tape;
- Damaging the walls with felt markers, crayons and pen marks;
- Damaging a bathroom cabinet door;
- Damaging the master bedroom door;
- Damaging 4 bi-fold closet doors in two downstairs bedrooms;
- Screwing shut 2 downstairs windows;
- Damaging the upstairs living room carpet which had to be removed;
- Damaging light shades in the living room; and
- Damaging the weather stripping on the kitchen door.

The Landlord said that it took 3 people a total of 117 hours to do these repairs and cleaning which he claimed at a rate of \$22.50 per hour (for a total of \$2,632.50). The Landlord admitted that the living room carpet had some existing wear and therefore he only claimed the cost of removing the old carpet. The Landlord also sought to recover the cost of materials for repairs which included receipts for approximately \$780.00 for painting supplies, plus further amounts for scrub pads for cleaning the floors, a new return air supply grill and weather stripping.

Analysis

Section 32 of the Act says that a Landlord is responsible for general maintenance and repairs. A Tenant is responsible for any damages that are caused by his or her acts or neglect but is not responsible for reasonable wear and tear. Section 37 of the Act also says that at the end of a tenancy, a tenant must leave the rental unit reasonably clean and undamaged.

RTB Policy Guideline #1 (Responsibility for Residential Premises) says a landlord is responsible for painting the interior of the rental unit at reasonable intervals. It also says that a tenant is responsible for repairing walls where there is an excessive number of nail holes or tape that has caused damage. The Landlord admitted that the rental unit had not been painted prior to the Tenants moving in (or for a period of approximately 5 – 6 years) but argued that it would not have had to be painted but for the repairs that were required. The condition inspection report however shows that the walls in most of the rooms at the beginning of the tenancy were only in fair condition. Consequently, I conclude that much of the rental unit would likely have required painting due to reasonable wear and tear even if there were no damages and on that basis I award the Landlord 1/3 of the cost of painting and repairs.

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Based also on the condition inspection report, I find that the living room carpet was in a reasonably good condition at the beginning of the tenancy although old and subject to some wear and tear. Consequently, I find that the Landlord is entitled to be compensated for his time to remove this carpeting. I also find that the Landlord is entitled to be compensated for his time to remove the substantial amount of garbage and belongings that were left behind in the rental unit by the Tenants.

With respect to cleaning, RTB Guideline #1 says that a tenant is not responsible for cleaning behind a refrigerator and stove unless they are on rollers. There was no evidence if this was the case or not. In any event, I find that it was necessary to clean the refrigerator, stove top and oven. I also find that it was necessary to do some general cleaning throughout the rental unit after all of the garbage was removed.

In summary, I find that the Landlord is entitled to be compensated for his labour to clean the rental unit and make the repairs in question although I also find that the number of hours he is claiming should be reduced to account for the fact that he bears 2/3 of the cost of repainting (which includes the cost of labour). Consequently, I find that the Landlord is entitled to be compensated for a total of 85 hours at \$20.00 per hour for a total of **\$1,700.00**.

With respect to the Landlord's expenses, I award him 1/3 of the cost of painting supplies or **\$260.00** plus **\$43.68** for floor cleaning pads, **\$41.33** for weather stripping and **\$17.90** for a return air supply grill. I note that the Landlord claimed a total of \$1,871.21 for supplies but provided receipts totalling only \$897.33. In the absence of any further receipts in support of the difference (of \$973.88), I find that there is insufficient evidence to support it and that part of the Landlord's claim is dismissed.

As the Landlord has been successful in this matter, he is also entitled to recover his \$50.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4), 62(3) and 72 of the Act to keep the Tenants' security deposit in partial payment of the damage award. The Landlord will receive a monetary order for the balance owing as follows:

Labour:	\$1,700.00
Paint supplies:	\$260.00
Floor pads:	\$43.68
Weather stripping:	\$41.33
Return air grill:	\$17.90
Filing fee:	<u>\$50.00</u>
Subtotal:	\$2,112.91
Less: Security deposit:	(\$375.00)
Accrued interest:	<u>(\$4.23)</u>
Balance owing:	\$1,733.68



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Conclusion

A Monetary Order in the amount of **\$1,733.68** has been issued to the Landlord and a copy of the Order must be served on the Tenants. If the amount is not paid by the Tenants, 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: June 05, 2009.

Dispute Resolution Officer