



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNR, MND, MNDC, MNSD, FF

Introduction

This matter dealt with an application by the Landlords for a Monetary Order for unpaid rent, for compensation for damages to the rental unit and to recover the filing fee for this proceeding. The Landlords also applied to keep the Tenant's security deposit.

The Landlords said they served the Tenant in person on May 1, 2009 with a copy of the Application, Notice of Hearing and evidence package. I find that the Tenant was served as required by s. 89 of the Act and the hearing proceeded in her absence.

Issues(s) to be Decided

1. Are there arrears of rent and if so, how much?
2. Are the Landlords entitled to compensation for damages to the rental unit and if so, how much?
3. Are the Landlords entitled to keep the Tenant's security deposit?

Background and Evidence

This tenancy started on March 1, 2006 and ended on April 15, 2009. Rent was \$1,400.00 per month payable in advance on the 1st day of each month. The Tenant paid a security deposit of \$700.00 at the beginning of the tenancy.

The Landlords said that the Tenant has rent arrears of \$400.00 for February 2009, \$1,400.00 for March 2009 and \$700.00 for April 2009. The Landlords also said that the Tenant left the rental unit damaged and unclean at the end of the tenancy. The Landlords admitted that they did not do a condition inspection report at the beginning or end of the tenancy but claimed that the rental unit had been newly renovated at the beginning of the tenancy.

The Landlords provided copies of photographs of the rental unit they said they took on or about April 16, 2009 as well as receipts for materials and cleaning supplies in support of their claim for compensation for repairs and cleaning.

Analysis

In the absence of any evidence from the Tenant to the contrary, I find that there are rent arrears of \$2,500.00 and award the Landlords that amount.

Section 37 of the Act says that at the end of a tenancy a Tenant must leave the rental unit clean and undamaged except for reasonable wear and tear. The Landlords' photographs show large holes in the drywall of the entrance, a bedroom closet, a bedroom wall, a hallway, bathroom, living room and small ones in the dining area. The Landlords also provided photographs showing soiled areas around the stove in the kitchen.

In the absence of any evidence from the Tenant, I find that the Tenant was responsible for the damages to the rental unit and as a result the Landlords are entitled to compensation for repairs. I find that some of the receipts provided by the Landlords are for items not related to repairs (ie. light bulbs and herbicide) and as a result, award them \$300.00 representing the balance of the expenses for cleaning supplies and repair materials. The Landlords sought \$50.00 per hour for 30 hours to repair and re-paint the damaged walls. Section 7(2) of the Act says that a party who suffers damages must do whatever is reasonable to minimize their losses. I find that the hourly rate claimed by the Landlords for repairs is unreasonable (in the absence of any evidence that they are professional dry wallers and painters) and instead award them \$35.00 per hour for a total of \$1,050.00.

I find that there is insufficient evidence to support the Landlords' claim for 20 hours of cleaning. The Landlords provided as evidence only a few photographs of the stove and immediate surrounding area in the kitchen although they argued that the whole rental unit needed cleaning. In the absence of any other corroborating evidence, I find the Landlords are entitled to be reimbursed for cleaning the stove area and award them 3 hours at \$20.00 per hour for a total of \$60.00.

In summary, I find that the Landlords have made out a claim as follows:

Rent arrears:	\$2,500.00
Repairs – materials:	\$300.00
Repairs – labour:	\$1,050.00
Cleaning:	\$60.00
Filing fee:	<u>\$50.00</u>
Subtotal:	\$3,960.00

Sections 24(2) and 36(2) of the Act state that if a Landlord does not complete a condition inspection report at the beginning or at the end of the tenancy, the Landlord



Dispute Resolution Services

Page: 3

Residential Tenancy Branch
Ministry of Housing and Social Development

forfeits his or her right to claim against the security deposit for damages to the rental unit. However, s. 38(4) of the Act states that a Landlord may still apply to keep a security deposit to offset other types of damages such as unpaid rent. Consequently, I order the Landlords to keep the Tenant's security deposit plus accrued interest in partial payment of the rent arrears. The Landlords will receive a monetary order for the balance owing as follows:

Damage award:	\$3,960.00
Less: Security deposit:	(\$700.00)
Accrued interest:	<u>(\$24.19)</u>
Balance owing:	\$3,235.81

Conclusion

A monetary order in the amount of **\$3,235.81** has been issued to the Landlords and a copy of it must be served on the Tenant. If the amount is not paid by the Tenant, 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: August 10, 2009.

Dispute Resolution Officer