

## **Decision**

**Dispute Codes:** MND, MNDC, MNSD, FF

### **Introduction**

This hearing dealt with an application from the landlord for a monetary order as compensation for damage to the unit, compensation for damage or loss under the Act, regulation or tenancy agreement, retention of the security deposit, and recovery of the filing fee. Agents for the landlord participated in the hearing and gave affirmed testimony.

Despite being served by way of registered mail with the application for dispute resolution and notice of hearing, neither tenant appeared.

### **Preliminary Matters**

In a letter received by facsimile at the Branch on January 21, 2010, from tenant "KK(L)," she states she "would like to request an adjournment" of the hearing "until at least 3 weeks from the 27 of January." Further, in her letter the tenant states in part:

My reason for adjournment is I will be in the hospital after giving birth to my twins. I have a scheduled c-section for the 25<sup>th</sup> of January but due to low iron levels I may need a blood transfusion and have been advised by my doctor I may be in the hospital for 7 days. The other tenant [tenant / respondent "JL"] is my legal husband and will be at the hospital assisting the nurses and myself with the care of our twins during my recovery.

Rule 6 of the Residential Tenancy Branch Rules of Procedure addresses "Rescheduling and Adjournment of Dispute Resolution Proceedings." In particular, Rules 6.1 and 6.2 read as follows:

**6.1 Rescheduling of a dispute resolution proceeding by consent more than three days in advance**

The Residential Tenancy Branch will reschedule a dispute resolution proceeding if written consent from both the applicant and the respondent is received by the Residential Tenancy Branch before noon at least three (3) business days before the scheduled date for the dispute resolution proceeding.

**6.2 If consent to rescheduling the dispute resolution proceeding cannot be obtained**

If a party wants to request that a dispute resolution proceeding be rescheduled to another date because that party will be unable to attend the dispute resolution proceeding due to circumstances beyond his or her control, and if the opposing party does not consent to rescheduling the dispute resolution proceeding, the dispute resolution proceeding must commence at the scheduled time and the party requesting the adjournment can ask the Dispute Resolution Officer to reschedule the dispute resolution proceeding by:

- (a) submitting to the Residential Tenancy Branch, at least three (3) business days before the dispute resolution proceeding, a document requesting that the dispute resolution proceeding be rescheduled and setting out the circumstances that are beyond the party's control that will prevent him or her from attending the dispute resolution proceeding; or
- (b) having an agent represent him or her attend the dispute resolution proceeding to make a request to the Dispute Resolution Officer to reschedule the dispute resolution proceeding and to describe the circumstances that are beyond the party's control that will prevent him or her from attending the dispute resolution proceeding.

The agents representing the landlord stated that they had received no previous request from either of the tenants to reschedule the hearing. Further, they stated they had not received a copy of the tenant's letter before me in which she requests an adjournment. Finally, as this tenancy ended nearly three months ago, the agents representing the landlord stated their objection to an adjournment and requested that the hearing proceed in order that a resolution of the dispute is achieved in a timely manner.

I considered the written submission from the tenant in addition to the information provided by the agents representing the landlord. In the result, having satisfied myself that there was insufficient evidence before me to support the claim that there were circumstances beyond the control of both tenants which prevented both of them from attending the hearing, I proceeded with the hearing as originally scheduled.

### **Issues to be decided**

- Whether the landlord is entitled to any or all of the above under the Act

### **Background and Evidence**

Pursuant to a written residential tenancy agreement, the month-to-month tenancy began on September 1, 2007. Rent in the amount of \$800.00 was payable in advance on the first day of each month. A security deposit of \$400.00 was collected on August 16, 2007. A move-in condition inspection and report were completed on August 23, 2007.

After giving notice to end the tenancy, the tenants vacated the unit effective October 31, 2009. A move-out condition inspection and report were completed on October 30, 2009.

Within 15 days after the end of tenancy, on November 13, 2009 the landlord filed an application for dispute resolution. In the application the landlord seeks compensation for materials and labour associated with miscellaneous work required in the unit after the end of tenancy in the total amount of \$522.75; this includes, but is not necessarily

limited to, replacement of a damaged bedroom door, re-puttying a bathroom door, patching holes left in walls as well as some repainting.

Additionally, the landlord seeks compensation for the cost of plumbing services required during the tenancy in August 2009 for \$210.00. The landlord submitted into evidence a letter from the plumber in which it is stated in part:

Our technician....retrieved a large amount of hair from the bathtub line. He removed the p-trap from the sink and ran the super vee through the line. Ran out about 10 – 15 feet then ran the machine a second time at 30 feet before the basin line cleared.

We have attended this property before and have no record of blockages until this blockage on August 5, 2009.

As an attachment to the above letter in which the tenant requests an adjournment, there is a second page in which she makes a submission concerning the dispute around the plumbing account; the agents representing the landlord stated that the landlord had not received a copy of this attachment.

Further, as the tenants did not have the carpets cleaned at the end of the tenancy, the landlord seeks compensation for the cost of carpet cleaning in the amount of \$140.86.

### **Analysis**

Section 32 of the Act speaks to **Landlord and tenant obligations to repair and maintain**, and provides in part, as follows:

32(3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

A move-in condition inspection and report & a move-out condition inspection and report were both completed by the parties; the comparative documentation on these reports

forms the basis of the landlord's claim for costs associated with various remedial work required in the unit after the end of tenancy. On the basis of this documentary evidence and undisputed testimony of the landlord's agents, I find that the landlord has established entitlement to recovery the related cost of \$522.75.

Section 33 of the Act addresses **Emergency repairs** and provides in part, as follows:

33(6) Subsection (5) does not apply to amounts claimed by a tenant for repairs about which the director, on application, finds that one or more of the following applies:

(d) the emergency repairs are for damage caused primarily by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

Pursuant to the above statutory provisions, on the basis of documentation submitted into evidence by the landlord, I find on a balance of probabilities that the services of a plumber to remove "a large amount of hair from the bathtub line" were required as a direct result of the actions of the tenants. Accordingly, I find that the landlord is entitled to recovery of cost incurred in the amount of \$210.00.

Residential Tenancy Policy Guideline #1 addresses Landlord & Tenant – Responsibility for Residential Premises. As to the responsibility for cleaning carpets at the end of tenancy, this guideline provides in part, as follows:

The tenant is responsible for periodic cleaning of the carpets to maintain reasonable standards of cleanliness. Generally, at the end of the tenancy the tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year.

In the instant case, the tenancy spanned a period of just over two years and the tenants neglected to have the carpets professionally cleaned before vacating the unit. I

therefore find that the landlord is entitled to recover the cost of carpet cleaning in the amount of \$140.86.

The full text of the Act, regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca/](http://www.rto.gov.bc.ca/)

In summary, based on the documentary evidence and undisputed testimony of agents representing the landlord, I find that the landlord has established a claim of \$923.61. This total is comprised of the particular amounts set out above (\$522.75 + \$210.00 + \$140.86) in addition to recovery of the \$50.00 filing fee. I order that the landlord retain the security deposit of \$400.00 plus interest of \$8.31 and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$515.30 (\$923.61 – \$408.31)

### **Conclusion**

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of **\$515.30**. This order may be served on the tenants, filed in the Small Claims Court and enforced as an order of that Court.

DATE: January 27, 2010

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Dispute Resolution Officer