

DECISION

Dispute Codes:

MND, MNR, MNSD, MNDC, FF

Introduction

This is the Landlord's application for a monetary order for loss of rent for the month of October, 2009, damages to the rental unit, and compensation for damage or loss; to apply the security deposit towards partial satisfaction of his monetary award, and to recover the cost of the filing fee from the Tenants.

The parties gave affirmed testimony and the Hearing proceeded on its merits.

Issues to be Decided

- Is the Landlord entitled to a monetary order for:
 - damage to the rental unit;
 - compensation for loss under the Act, regulation or tenancy agreement;
 - and
 - loss of rent for the month of October, 2009?
- If the Landlord is provided with a monetary award, is the Landlord entitled to apply the security deposit towards partial satisfaction of his monetary award?

Background and Evidence

On September 13, 2009, this tenancy ended as a result of a Notice to End Tenancy for Unpaid rent. Monthly rent was \$1,455.00. The Tenants paid a security deposit in the amount of \$750.00 on September 1, 2007. The rental unit was re-rented on January 15, 2010. A condition inspection report was done at the end of the tenancy and a copy provided in evidence. The Tenants did not sign the condition inspection report, as they did not agree with the Landlord's agent's comments on the form.

The Landlord's agent testified that the Tenants did not allow the Landlord into the rental unit for the purposes of showing prospective tenants, even though the Tenants were provided with due Notice. The Landlord entered a copy of the Notice of Entry

Document in evidence. Therefore, the Landlord is applying for loss of rent for the month of October, 2009, in the amount of \$1,455.00.

The Tenant stated that the Notice of Entry was not sufficient notice.

The Landlord's agent testified that the Landlord placed ads in the local newspaper, the weekends of September 24 and October 1, 2009. In October, the Landlord also listed the rental unit on Craigs List, Used Victoria and Kijiji.

The Landlord's agent testified that the Tenants did not leave the rental unit in a state of cleanliness and repair suitable for new tenants. The Landlord provided photographs of the rental unit in support of their claim. The Landlord's agent stated that the Landlord obtained three quotes for hourly rates from professional cleaners, as follows: \$110.00 per hour; \$75.00 per hour; \$30.00 per hour. The Landlords hired the least expensive cleaners, who could not clean the rental unit until September 21, 2009. The Landlord's agent testified that the Tenants damaged the rental unit. The Landlord is claiming damages as follows:

Description	Invoice/receipt provided	Amount
Cleaning charges	Yes	\$588.00
Carpet shampooing	Yes	\$105.00
Pet waste disposal	Yes	\$36.75
Repair damaged countertop in kitchen	Yes (estimate)	\$133.28
Replace torn roller blind	Yes (estimate)	\$140.00
Repair carport eaves trough	No	\$300.00
Replace bathroom sink stopper	Yes	\$1.66
Replace two ice cube trays	Yes	\$3.33

The Tenant disputed the Landlord's claim for cleaning charges. The Tenant stated that they left the rental unit as clean as it was when they moved in. The Tenant testified that he shampooed the carpets two months before they moved out. The Tenant agreed that he was responsible for the damage to the countertop in the kitchen, but denied responsibility for the torn roller blind, which the Tenant stated was very old and didn't work properly when the Tenants moved in. The Tenant denied damaging the carport

eaves trough and stated that it was possibly done by a tow truck the Landlord had hired. The Tenant testified that they had not removed the ice cube trays or the sink stopper.

The Landlord has applied for unpaid utilities in the amount of \$244.19. The Tenant did not dispute this portion of the Landlord's claim.

The Landlord has applied for damages in the amount of \$7.50 for bank charges due to the Tenants' July rent cheque being returned "NSF".

Analysis

Section 29(1) of the Act states:

Landlord's right to enter rental unit restricted

29 (1) A landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:

- (a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;
- (b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:
 - (i) the purpose for entering, which must be reasonable;
 - (ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;
- (c) the landlord provides housekeeping or related services under the terms of a written tenancy agreement and the entry is for that purpose and in accordance with those terms;
- (d) the landlord has an order of the director authorizing the entry;
- (e) the tenant has abandoned the rental unit;
- (f) an emergency exists and the entry is necessary to protect life or property.

The Notice of Entry provided by the Landlord does not disclose a specific date or an end date. The Notice of Entry states:

I will be showing the suite to prospective tenants or purchasers on the following days/dates:

Mon, Wed, Fri between the hours of 6:00 p.m. and 9:00 p.m.

Sunday between the hours of 2:00 p.m. and 6:00 p.m.

Beginning Sunday Sept. 6, 2009

The Tenants and Landlord did not have an agreement to a schedule of viewing times included in a single notice. If there is no such agreement, the Landlord must give proper notice each time before showing the rental unit. Therefore, I find that the Landlord did not provide the Tenant with effective notice, in accordance with the provisions of Section 29(1)(b) of the Act, and the Landlord's application for loss of rent for the month of October is dismissed.

I am satisfied, based on the testimony and evidence provided by the Landlord, that the Tenants did not leave the rental unit in a reasonable state of cleanliness, and allow the Landlord's claim in the amount of \$588.00 for cleaning charges and \$36.75 for disposal of pet waste..

The Tenant testified that he shampooed the carpets two months before vacating the premises, however the Tenants had a dog and it is expected that the carpets be shampooed immediately before vacating the rental unit. Therefore, I allow the Landlord's claim in the amount of \$105.00 for shampooing the carpets.

The Tenant did not dispute the Landlord's claim in the amount of \$133.28 for repairing the kitchen countertop, and I allow this portion of the Landlord's claim.

The Tenant testified that the roller blind was broken, and the Tenants had to hold it in place with a pin. The Tenant stated that the blind could have been patched, and objected to being held responsible for paying for brand new blinds. The Landlord's agent testified that the blinds were approximately 15 years old. The Residential Tenancy Policy guidelines fix the useful life of blinds at 10 years. Therefore, I dismiss this portion of the Landlord's claim.

The Landlord did not provide sufficient evidence to support their claim for damages to the eaves troughs and loss of the sink stopper and ice cube trays, and I dismiss this portion of the Landlord's claim.

The Tenants did not dispute the Landlord's claim for unpaid utilities in the amount of \$244.19, and I allow this portion of the Landlord's claim.

Section 7 of the *Residential Tenancy Regulation* allows a landlord to charge a service fee for the return of a tenant's cheque. The Landlord provided supporting documentary evidence, and I allow this portion of the Landlord's claim.

The Landlord has been partially successful in his application and is entitled to recover the cost of the filing fee from the Tenants.

Pursuant to the provisions of Section 72(2)(b) of the Act, the Landlord may apply the security deposit, together with accrued interest in the amount of \$15.07 towards partial satisfaction of his monetary award.

The Landlord has established a monetary order, calculated as follows:

Cleaning charges	\$588.00
Carpet shampooing	\$105.00
Pet waste disposal	\$36.75
Repair to kitchen countertop	\$133.28
Unpaid utilities	\$244.19
NSF fees for return of August rent cheque	\$7.50
SUBTOTAL	\$1114.72
Less set off of security deposit and interest	-\$765.07
Balance due to the Landlord	\$349.65

Conclusion

I hereby grant the Landlord a Monetary Order in the amount of \$349.65 against the Tenants. This Order must be served on the Tenants and may be filed in the Provincial Court of British Columbia (Small Claims) 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: February 5, 2010.
