



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNDC, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for compensation for unpaid rent, damages to the rental unit, to retain all or part of the security deposit and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

The agent for the landlord stated that on October 9, 2009 copies of the Application for Dispute Resolution and Notice of Hearing were sent to each of the tenants by separate registered mail, to the forwarding addresses provided by the tenants at the end of the tenancy. One tenant provided her written forwarding address on August 21, 2009; the remaining two tenants gave their written forwarding address as part of the move-out condition inspection completed on August 31, 2009. The landlord provided Canada Post tracking numbers as proof of service and stated that the three packages were returned as undelivered.

On January 13, 2010 the landlord served each respondent via registered mail, with copies of the evidence, including photographs. The forwarding addresses were again used. The female tenant B. I. did accept her evidence package, as confirmed by the landlord's check of the Canada Post registered mail tracking information web site. The other two packages remain at the post office awaiting pick-up.

Registered mail is deemed served on the fifth day after mailing. Therefore; these documents are deemed to have been served in accordance with section 89 of the *Act*; however the tenants did not appear at the hearing.

Preliminary Matter

The tenants signed the move-out condition inspection dated August 31, 2009, agreeing to allow deductions from the deposit for cleaning, blind cleaning, repairs and outstanding rent. Therefore, any monetary Order issued will be set-off by the deposit paid.

During the hearing the landlord withdrew the claim requesting repair and painting of damaged walls, in the sum of \$192.68.

Issue(s) to be Decided

Is the landlord entitled to a monetary Order for damages to the rental unit?

Is the landlord entitled to a monetary Order for unpaid rent?

May the landlord retain the deposit paid?

Is the landlord entitled to filing fee costs?

Background and Evidence

This one year fixed-term tenancy commenced on February 1, 2010, rent was \$1,650.00, due on the first day of the month. A deposit in the sum of \$825.00 was paid on January 15, 2009. The rental unit was less than one year old and in brand new condition at the start of this tenancy. A move-in and move-out condition inspection report was submitted as evidence and signed by the tenants.

The landlord agreed to allow the tenants to move out of the rental unit on August 31, 2009. The tenants paid only \$825.00 of rent owed for August 2009.

The landlord is claiming the following compensation for damages:

Unpaid August 2009 rent	825.00
Cleaning of the rental unit	360.00
Blind cleaning	181.65
Removal of personal belongings	35.52
Damage to granite kitchen counter	300.00
Repair bamboo kitchen counter	159.60
	2061.27

The tenants failed to provide the landlord with a payment schedule that was offered during an October 1, 2009 telephone call with the tenants. The landlord has claimed for excessive wear and tear to the new granite counters and provided photographic evidence of the damages and state of the rental unit on August 31, 2009. The landlord provided receipts for all costs claimed.

The tenants did pay to have the carpets steam cleaned at the end of the tenancy; however, the photographs submitted as evidence and taken after the cleaning, show that the carpets were not fully cleaned and required deep cleaning.

Analysis

In the absence of evidence to the contrary, I find that the tenants have not paid rent in the amount of \$825.00 for August 2009, and that the landlord is entitled to compensation in that amount.

I find that the tenants failed to meet the requirements of section 37 of the Act which requires tenants to leave a rental unit in a reasonably clean and undamaged state, except for reasonable wear and tear. I find that the damage to the kitchen counter top is beyond what would be expected from wear and tear and that the tenants permanently stained the counter.

Therefore, based on the photographic evidence and testimony of the landlord and in the absence of the tenants, I find that the landlord is entitled to compensation for damages to the rental unit in the sum of \$2,111.27.

	Claimed	Accepted
Deep cleaning of carpets	199.50	199.50
Cleaning of the rental unit	360.00	360.00
Blind cleaning	181.65	181.65
Removal of personal belongings	35.52	35.52
Damage to granite kitchen counter	300.00	300.00
Repair bamboo kitchen counter	159.60	159.60
	2061.27	2061.27

I find that the landlord's application has merit, and I find that the landlord is entitled to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

I find that the landlord is entitled to retain the tenant's security deposit plus interest, in the amount of \$875.00, in partial satisfaction of the monetary claim.

Conclusion

I find that the landlord has established a monetary claim, in the amount of \$2,111.27, which is comprised of \$2,061.27 in damages to the rental unit and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

The tenants have previously agreed to retention of the deposit by the landlord.

Based on these determinations I grant the landlord a monetary Order for the balance of **\$1,286.27**. In the event that the tenants do not comply with this Order, it may be served on the tenants, filed with the Province of British Columbia Small Claims Court 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 08, 2010.

Dispute Resolution Officer