

DECISION

Dispute Codes:

Landlord: MNR, MNSD and FF
Tenant: MNDC and MNSD

Introduction

These applications were brought by both the landlords and the tenant.

By application of March 29, 2010, the landlords seek a Monetary Order for unpaid utilities, cleaning and painting of the rental unit and reseeding of the parking space, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off.

By application July 14, 2010, the tenant seeks a Monetary Order for one-half month's rent to which she was entitled under section 51(1) of the *Act* (tenant's compensation for notice given under section 49 for landlord use), compensation for loss of quiet enjoyment and return of her security deposit.

Issues to be Decided

These applications require a decision on the merits of the claims submitted by both parties, taking into account whether damages are proven, whether they are attributable to the other party, which the amounts claimed are reasonable and allowed, and whether the parties have taken reasonable measures to minimize their losses.

Background, Evidence and Analysis

This tenancy began on February 1, 2006 according to the tenant and the landlords took possession of the rental building on April 1, 2009. The tenancy ended on March 15, 2010 pursuant to a Notice to End Tenancy for landlord use.

Rent was \$675 per month and the landlords hold a security deposit of \$350 paid on or about February 1, 2006.

The landlord makes the following claims on which I find as follows:

Unpaid utilities - \$316.60. With some discussion, the parties agreed on this amount and I allow this part of the landlord's claim.

Painting - \$551.25. The landlords make this claim on the grounds that the rental unit required painting at the end of the tenancy. The tenant stated that the unit had not been painted during her four year tenancy and that she believed it had been painted two years previous. The six year period would exceed the useful life of an interior paint job under standard depreciation tables. Therefore, I find that the landlord must bear this cost and the claim is dismissed.

Carpet cleaning – \$82.95. During the hearing, the landlord put forward this request for reimbursement for carpet cleaning, receipt provided. As it is customary for tenants to assume the responsibility for professional carpet cleaning, this claim is allowed in full.

General Cleaning - \$200. The landlord submits a receipt from her own company claiming \$200 for eight hours cleaning required in the rental unit, a claim vigorously challenged by the tenant. Based on photographic evidence and the verbal evidence of the parties, I allow \$50 on this claim.

Repair and reseeding of parking space - \$100. The landlord gave no evidence on this claim and it is, therefore, dismissed.

Filing fee - \$50. Based on the conduct of the parties during the hearing, I decline to award the filing fee.

The tenant submits the following claims on which I find as follows:

Section 51(1) return of rent - \$337.50. Tenants who end a tenancy under notice for landlord use are granted one month's rent under section 51(1) of the *Act*. In this matter, the parties concurred that the tenant had paid the full rent for February 2010, and had exercised her right to leave on 10 days notice on March 15, 2010. Therefore, I find that the tenant is entitled to return of the rent for the last two weeks of February 2010 and this claim is allowed.

Loss of Quiet Enjoyment. The tenant did not set an amount but asked for compensation for loss of quiet enjoyment citing conflicts between the parties involving police attendance, the landlords' profanely admonishing her to leave and following her moving truck, apparently to ascertain her new address.

On the question of loss of quiet enjoyment, Residential Policy Guideline 6 advises, in part:

Temporary discomfort or inconvenience does not constitute a basis for a breach of the covenant of quiet enjoyment ...Substantial interference that would give sufficient cause to warrant the tenant leaving the rented premises would constitute a breach of the covenant of quiet enjoyment, where such a result was either intended or reasonably foreseeable.

A tenant does not have to end the tenancy to show that there has been sufficient interference so as to breach the covenant of quiet enjoyment, however it would ordinarily be necessary to show a course of repeated or persistent threatening or intimidating behaviour.”

Based on the oral and written evidence presented by the tenant, while I recognize that there were unpleasant relations between the parties, I do not find sufficient evidence to justify an award for loss of quiet enjoyment.

In considering the awards made to the landlords and the tenant, I find that accounts balance as follows:

Tenant's credits and awards		
Security deposit	\$350.00	
Interest (February 1, 2006 to date)	12.24	
Return of rent under section 51(1)	<u>337.50</u>	
Sub total	\$699.74	\$699.74
Award to landlords		
Unpaid utilities	\$316.60	
General cleaning	50.00	
Carpet cleaning	<u>82.95</u>	
	\$449.55	- 449.55
Total remaining due to tenant		\$250.19

Conclusion

The tenant's copy of this decision is accompanied by a Monetary Order for \$250.19, enforceable through the Provincial Court of British Columbia, for service on the landlords.

July 22, 2010