

## **Decision**

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

### **Introduction**

This hearing dealt with 2 applications: i) by the landlord for a monetary order as compensation for damage or loss under the Act, regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee; ii) by the tenants for a monetary order as compensation for damage or loss under the Act, regulation or tenancy agreement / and return of the security deposit. Both parties participated in the hearing and gave affirmed testimony.

### **Issues to be decided**

- Whether either party is entitled to any of the above under the Act, regulation or tenancy agreement

### **Background and Evidence**

Pursuant to a written tenancy agreement, the original fixed term of tenancy was from September 1, 2008 to August 31, 2009. Thereafter, tenancy continued on a month-to-month basis until March 31, 2010. By the end of tenancy, monthly rent was \$1,255.00 and was payable in advance on the first day of each month. A security deposit of \$605.00 was collected on or about September 1, 2008. A move-in condition inspection and report were completed on September 1, 2008.

At the end of tenancy, a move-out condition inspection and report were completed by the parties. By way of the tenant's signature on the report, the tenant agreed as follows:

I, (We) [tenant's signature]

Agree that this report fairly represents the condition of the rental unit and that the above charges are to be deducted from the security deposit and / or pet damage deposit and that any amounts still owing are due and payable.

The report documents estimated costs for miscellaneous cleaning and repairs in the amount of \$1,127.78. Subsequently, after cleaning and repairs had been completed, the landlord documented the final cost of cleaning and repairs in the amount of \$909.18, or \$218.60 less than what was first estimated.

The landlord's agent testified that the move-out condition inspection and report were undertaken carefully and with mutual courtesy. However, the tenant testified that within 24 hours of having signed the move-out condition inspection report, he had misgivings about what he had agreed to. Specifically, in his application he states he considered the quote "really absurd as we suspect that they only want to milk money from renters. I signed the initial quote to avoid further discussion but disputed it with them in email."

### **Analysis**

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/)

Section 38 of the Act speaks to **Return of security deposit and pet damage deposit**, and provides in part as follows:

38(4) A landlord may retain an amount from a security deposit or a pet damage deposit if,

(a) at the end of a tenancy, the tenant agrees in writing the landlord may retain the amount to pay a liability or obligation of the tenant, ...

Based on the documentary evidence and testimony of the parties, I find that the tenant agreed in writing the landlord may retain an amount from the security deposit in order to "pay a liability or obligation." Evidence submitted by the landlord includes receipts for the itemized expenses. As for the monetary order, therefore, I find that the landlord has established a claim of \$959.18. This is comprised of \$909.18 for miscellaneous cleaning and repairs, in addition to the \$50.00 filing fee. I order that the landlord retain the security deposit of \$605.00 plus interest of \$3.02 (total: \$608.02), and I grant the

landlord a monetary order under section 67 of the Act for the balance owed of \$351.16 (\$959.18 - \$608.02).

The tenants' application is hereby dismissed.

**Conclusion**

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of \$351.16. Should it be necessary, this order may be served on the tenants, filed in the Small Claims Court and enforced as an order of that Court.

DATE: August 27, 2010

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Dispute Resolution Officer