

## **DECISION**

**Dispute Codes**      MND; MNDC; MNSD; FF

### **Introduction**

This is the Landlord's application for a Monetary Order for damages to the rental unit and compensation for damage or loss; to retain the security deposit in partial satisfaction of his monetary claim; and to recover the cost of the filing fee from the Tenant.

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

### **Issues to be Decided**

- Is the Landlord entitled to a Monetary Order, and if so, in what amount?

### **Background and Evidence**

There is a written tenancy agreement between the parties, a copy of which was provided in evidence. Monthly rent was \$1,095.00, due the first day of each month. The Tenant paid a security deposit in the amount of \$550.00 on January 1, 2009. The tenancy ended on April 30, 2010.

#### **The Landlord gave the following testimony:**

The Tenant did not attend two opportunities to perform a move out inspection at the end of the tenancy. The Landlord inspected the rental unit in the absence of the Tenant and found the following damages: 16 damaged floor tiles; damaged bedroom door; dirty windows, refrigerator, stove, hood fan, bathroom and kitchen counters; missing custom blinds; missing oven tray; missing copy of strata bylaws; and damaged tap knob in the bathroom. In addition, the Tenant lost two sets of keys for the rental unit and 2 FOBs

during the tenancy. The Landlord seeks compensation for the time he took to make additional keys, pick them up and provide them to the Tenant and request additional FOBs. The Tenant did not return his keys to the storage room and only returned one set of keys for the rental unit. The Landlord is also seeking recovery of the cost of the move-in and move-out fee levied by the strata corporation, pursuant to the terms of the tenancy agreement and the strata bylaws.

The Landlord seeks a monetary award, calculated as follows:

Recovery of move-in, move-out fee charged by strata corporation	\$200.00
Cost to replace 2 FOBs	\$50.00
Cost to replace blinds	\$200.00
Cost to repair damaged bedroom door	\$50.00
Cost to replace missing oven tray	\$20.00
Compensation for replacing keys for storage room and front entrance	\$10.00
Service fee for making additional keys and FOBs	\$80.00
Cost to replace missing strata bylaws	\$20.00
Cleaning costs (4 hours @\$20.00 per hour)	\$80.00
Costs for removing and replacing broken tiles	\$400.00
TOTAL MONETARY CLAIM	\$1,010.00

The Tenant gave the following testimony:

The Tenant agreed that he was responsible for the following charges:

- Move-in fee \$100.00
- Cost to replace 2 FOBs \$50.00
- Cost to replace oven tray \$20.00
- Cost to replace storage key and front door key \$10.00
- \$180.00

The blinds were broken when the Tenant moved into the rental unit. The Tenant called the Landlord and the Landlord agreed that the Tenant could replace them, which he did at a cost of \$100.00.

The door was damaged when the Tenant moved into the rental unit. The Tenant left the copy of the bylaws on top of the fridge and did not look at them during the term of

the tenancy. The tiles were not grouted properly and broke because they were not laid properly. Three of them were broken with the Tenant moved into the rental unit. The Tenant spoke to the Landlord about the broken tiles, told him how to fix them and provided the Landlord with replacement tiles, which the Tenant paid for. The Tenant hired two professional cleaners to clean the rental unit at the end of the tenancy. The Landlord only offered one opportunity to do the move-out inspection.

### Analysis

The Tenant agreed that he was responsible for some of the items the Landlord is claiming, and I allow the Landlord's claim with respect to those items.

This is the Landlord's application, and as such the onus is on the Landlord to prove his monetary claim.

The Tenant agreed that he was provided with a copy of the strata bylaws. A copy of the signed Form K was entered in evidence, along with a copy of a portion of the bylaws. The excerpt provided confirms a fee of \$100.00 for move-in and a fee of \$100.00 for move-out. Therefore, I allow the Landlord's claim for the move-out fee.

A copy of the Condition Inspection Report was entered in evidence. The Tenant was present at the move-in inspection, and signed the report indicating that he agreed with the Report. The section pertaining to "windows/screens/coverings" in the living room shows that they were in fair to good condition. Therefore, I find that the Landlord has provided sufficient evidence that the blinds were in fair to good condition when the Tenant moved in. The Landlord did not provide a receipt or documentary proof of the cost to replace the custom made blinds, and therefore I allow a nominal amount of \$100.00.

Likewise, the move-in Condition Inspection which was signed by the Tenant also indicates that the bedroom door was in fair to good condition when the Tenant moved

in. The Landlord did not provide documentary evidence of the cost of repairing or replacing the door and therefore I allow a nominal amount of \$25.00 for this portion of his claim.

A Landlord must provide two opportunities for a move-out inspection. If the Tenant fails to attend at the move-out inspection, the Landlord must issued a Notice of Final Inspection Opportunity and provide the Notice to the Tenant. There was no evidence that the Landlord had provided the Tenant with the Notice of Final Inspection Opportunity.

The Landlord seeks compensation for his time and effort to replace keys lost by the Tenant, and relies on a provision of the Strata Property Act for this claim. There is no clause in the tenancy agreement, or the portion of the strata bylaws provided in evidence, allowing for this charge and therefore this portion of his claim is dismissed.

The Landlord did not provide sufficient evidence that the Tenant was responsible for damaging the tiles. Both parties agreed that three of the tiles were cracked when the Tenant moved into the rental unit. The Tenant testified that the tiles were not properly laid with the correct amount of mortar and grout. The Landlord did not dispute that the Tenant had purchased and provided the Landlord with replacement tiles. This portion of the Landlord's claim is dismissed.

The Landlord did not provide sufficient documentary evidence to support the remainder of his claim or the amount he is claiming for the remainder of his claim (i.e. photographs of the rental unit showing the lack of cleanliness on the day the Landlord did the move-out inspection, or invoices for the cost of photocopying the bylaws and cleaning).

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

Recovery of move-in, move-out fee charged by strata corporation	\$200.00
Cost to replace 2 FOBs	\$50.00
Cost to replace missing oven tray	\$20.00
Compensation for missing blinds	\$100.00
Compensation for damage to bedroom door	\$25.00
Compensation for replacing keys for storage room and front entrance	\$10.00
<b>TOTAL MONETARY AWARD</b>	<b>\$405.00</b>

The Landlord has been partially successful in its application and is entitled to recover the cost of the \$50.00 filing fee from the Tenant.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit towards satisfaction of the Landlord's monetary claim. No interest has accrued on the security deposit.

The remainder of the security deposit, in the amount of \$95.00 must be returned to the Tenant forthwith.

### **Conclusion**

I hereby grant the Tenant a Monetary Order in the amount of \$95.00 against the Landlord, representing the residue of the security deposit after satisfaction of the Landlord's monetary award. This Order must be served on the Landlord 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: November 16, 2010.

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