



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNDC, MNSD

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 damage to the unit and for damage or loss under the Act.

The landlord provided affirmed testimony that on July 15, 2010, copies of the Application for Dispute Resolution and Notice of Hearing were personally served to the tenant at the tenant's place of employment.

The tenant has submitted evidence, in response to the application.

These documents are deemed to have been served in accordance with section 89 of the Act; however the tenant did not appear at the hearing.

Preliminary Matters

There was no evidence before me of a claim related to the portion of the application claiming damage or loss under the Act; only damages to the rental unit.

The landlord served the tenant with evidence on November 6 and 19, 2010, at the tenant's place of employment.

The landlord submitted evidence in which the claim for compensation was increased. The application was not amended, nor was an amended application served to the tenant; therefore, I determined that the hearing would proceed based upon the claim included on the only application before me.

The tenant made 3 evidence submissions totaling 23 pages; which the landlord confirmed she had received. I determined that the tenant's written submission would be considered and offered the landlord an opportunity to respond to the written submission during the hearing.

Issue(s) to be Decided

Is the landlord entitled to compensation for damages in the sum of \$967.47?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy commenced July 10, 2009; and ended May 20, 2010, as the result of the landlord's request the tenant move out.

The landlord has made the following claim for compensation:

2 bedroom blinds	100.13
Drywall prep mix	12.28
Toilet seat	10.49
Light bulb bathroom	10.49
Paint	18.89
Sliding glass door & window repair	100.00
Carpet repair	100.00
Clean oven and walls	20.00
Fix 3 doors and closet door	300.00
Misc expenses	10.94
Paint	131.00
Screen door missing	25.00
TOTAL	971.38

A copy of a condition inspection report was supplied as evidence; the move-in was completed July 15, 2009, the move-out on June 30, 2010.

The condition inspection report indicated the following deficiencies related to the landlord's claim:

- Kitchen cleaning, 1 hour \$20.00; and
- Blind missing in bedroom.

The report included numerous references to damage to the walls which required drywall repair. On June 30, 2010, the landlord and tenant signed an agreement in which the tenant agreed to have all the damaged drywall professionally repaired as soon as possible, or she could be charged for the required repairs.

The landlord submitted photographs of the walls taken at the end of the tenancy, which show attempts made by the tenant to make repairs. The landlord agreed to have the

tenant's worker attend at the unit to further complete the drywall repairs. The landlord was not satisfied with the work completed and hired another individual to sand and finish the work.

The balance of the claim made by the landlord; outside of those indicated on the move-out condition inspection, were discovered after the tenant moved out.

The carpet had been purchased in February 2008; a receipt in the sum of \$1,242.54 was supplied as evidence. The landlord stated that the tenant had damaged the carpet with candle wax and had stood on the damaged spots during the inspection so that the landlord would not see them; this damage was discovered after the inspection had been completed. The landlord has charged \$100.00 for repairs that she made to the carpet, vs. the cost of replacement. The landlord supplied photographs of the carpet and a July 8, 2010, receipt for carpet cleaning in the sum of \$132.16. The landlord had vacuumed but the drywall dust would not come out of the carpet.

The landlord supplied a receipt in the sum of \$26.87 for blind replacement; receipts totaling \$67.03 for drywall supplies, a receipt for the patio door repair in the sum of \$55.00 and a number of additional receipts for the costs claimed. The toilet seat hinges were broken and a light bulb in the bathroom was not replaced.

The screen to the patio door had been replaced by the tenant with a door that did not fit into the frame and the handle was broken. The landlord purchased a replacement screen door at Habitat for Humanity in the sum of \$20.00; a receipt was provided. The landlord purchased replacement doors in the sum of \$100.00; receipts for used doors were provided as evidence.

During the inspection the sliding patio door had been opened; this was confirmed by the tenant's submission, as she had wanted the carpets to dry. The patio door was not used during the inspection and when the landlord went to close the door she discovered that it was damaged. Photographs show that the door appears to have been forced or pried from the outside and the landlord suspected the tenant's son had caused this damage. The landlord supplied a copy of a receipt for repairs to the door frame and paint for the metal frame in the sum of \$55.00.

The tenant supplied photographs of the rental unit as evidence of the state of the unit. The tenant's written submission disputed the landlord's claim; the tenant supplied a copy of a carpet cleaning receipt issued on June 30, 2010, in the sum of \$99.75 for the unit address. The tenant acknowledged the signed agreement in relation to the drywall repairs which she paid to complete and submitted that the balance of the claim is based on normal wear and tear.

The tenant supplied a letter dated July 19, 2010, from the individual who she and the landlord had agreed would complete the drywall repairs. The letter indicated that 16 hours of repair work had been completed in the home, between June 30 and July 2, 2010, to the satisfaction of the landlord. The walls showed signs of stress cracks and

had imperfections. Drywall screws were protruding and old paint drips were present. The walls were sanded, plastered, leveled, sanded again and primed; ready for painting. The landlord had thanked him for the work and asked if he could be available to complete additional work in the unit.

A November 8, 2010, letter submitted as evidence by the tenant indicated that it is ridiculous to suggest she stood on damaged areas of the carpet during the inspection. The unit was left in very clean condition and the drywall repairs were completed, as promised. The tenant also questioned evidence submitted as the landlord has the cheques written do not reference any invoices issued showing the business names or phone numbers.

The landlord responded to the tenant's written submission; stating she had given the drywaller the benefit of the doubt in relation to the quality of work, that the doors had been punched or kicked and could not be repaired by dry walling. The landlords pointed out the doors are 30 years old and solid wood, so wood filler was required to repair the doors. The repairs made to the doors and walls were not sufficient.

The evidence before me indicated that the tenant paid a deposit in the sum of \$475.00 at the start of the tenancy. The landlord's evidence included a written submission as to why she was holding the deposit; the landlord did not include a claim against the deposit. The tenant provided her forwarding address to the landlord on June 30, 2010;

Analysis

When making a claim for damages under a tenancy agreement or the Act, the party making the allegations has the burden of proving their claim. Proving a claim in damages requires that it be established that the damage or loss occurred, that the damage or loss was a result of a breach of the tenancy agreement or Act, verification of the actual loss or damage claimed and proof that the party took all reasonable measures to mitigate their loss.

Residential Tenancy Branch Regulation, section 21, provides:

Evidentiary weight of a condition inspection report

21 In dispute resolution proceedings, a condition inspection report completed in accordance with this Part is evidence of the state of repair and condition of the rental unit or residential property on the date of the inspection, unless either the landlord or the tenant has a preponderance of evidence to the contrary.

I have considered the evidence submitted by each party and find that the landlord is entitled to the following compensation:

	Claimed	Accepted
Chem Dry carpet cleaning	132.16	0
Drywall prep mix	12.28	12.28
Toilet seat	10.49	0
Light bulb bathroom	10.49	0
Paint	18.89	18.89
Sliding glass door & window repair	100.00	0
Carpet repair	100.00	0
Clean oven and walls	20.00	20.00
Fix 3 doors and closet door	300.00	100.00
Misc expenses	10.94	0
Paint	131.00	131.00
Screen door missing	25.00	25.00
TOTAL	971.38	334.04

I have made these findings based on the condition inspection report and the evidence before me.

The condition inspection report recorded the missing blinds and the need for kitchen cleaning; I find that the landlord is entitled to these costs which are verified.

As the parties agreed to the drywall repairs, which then required painting of the walls by the landlord, I find that the landlord is entitled to the painting and drywall supply costs supported by receipts.

There is no evidence the toilet seat hinge was intentionally broken by the tenant and not due to normal wear and tear. There is no evidence before me that the light bulb did not burn out after the inspection was completed. Therefore, the claim for the seat and light bulb are dismissed.

The tenant disputed the claim related to carpet damage and I find, in the absence of any reference to this damage on the inspection report, that this claim is dismissed. The tenant supplied evidence of carpet cleaning at the end of the tenancy and I find it was not reasonable to clean the carpets one week later as the result of some sanding that took place, in the expectation that the tenant would pay for this.

The tenant's written submission did not dispute the claim made in relation to door damages but acknowledged that the doors were to be patched as part of the agreement signed on June 30, 2010. However, a copy of this agreement submitted as evidence indicated that only the walls were being repaired by dry walling. Therefore, I find, on the balance of probabilities, that the landlord is entitled to door costs in the sum of \$100.00, based on the receipts verifying the claim.

I have not made any determination in relation to the deposit that the landlord is holding in trust.

Conclusion

I find that the landlord has established a monetary claim, in the amount of \$334.04, which is comprised of damages to the rental unit.

Based on these determinations I grant the landlord a monetary Order in the sum of \$334.04. In the event that the tenant does not comply with this Order, it may be served on the tenant, 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: December 13, 2010.

Dispute Resolution Officer