



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the landlord's agent, the tenant and her advocate.

Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for damage or loss; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenancy began on June 1, 2007 as a month to month tenancy for a monthly rent of \$500.00 due on the 1st of each month with a security deposit of \$250.00 paid in May of 2007. The tenancy ended when the tenant vacated the rental unit on July 12, 2010.

The landlord's agent testified that the landlord is claiming for repairs to the wood flooring in the rental unit that was damaged as a result of the tenant keeping her dog tethered in the living room and that the dog had urinated and defecated on the floor.

The agent testified that at the end of the tenancy the stench was so foul that one of his assistants had to leave the room and vomited outside of the unit. The landlord or her agent has provided no documentary evidence for the landlord's claim.

The tenant testified that when she took possession of the rental unit the previous tenant had had garbage bags that had ripped open and caused damage to the floor and that the previous tenant had had his fridge in the middle of the living room that leaked and caused damage.

The landlord's agent contends that even if the previous tenant had caused some damage to the floor the stench resulted from this tenant's dog. That he himself had seen feces and urine on the floor in question.

Both parties confirm that no move in inspection was completed prior to the start of the tenancy and although a move out inspection was complete no Condition Inspection Report was completed.

Analysis

To be successful in a claim of loss or damage the party making the claim must provide sufficient evidence to substantiate the following four points:

1. That a loss or damage exists;
2. The loss or damage results from a violation of the *Act*, regulations or tenancy agreement;
3. The value of the damage or loss;
4. Steps taken, if any, to mitigate the loss.

While both parties agree, by their testimony, that the damage to the floor exists, I accept there is damage. However, as the landlord failed to provide any evidence to substantiate the condition of the rental unit at the start of the tenancy or at the end of the tenancy, I find the landlord has failed to establish that the damage results from a violation of the *Act*, regulations or tenancy agreement.

As the landlord has not submitted any documentation as to the costs of the repairs, I find the landlord has also failed to establish the value of the loss and subsequently the steps, if any, that were taken by the landlord to mitigate the losses.

Conclusion

For the reasons noted above, I dismiss the landlord's application in its entirety, without leave to reapply.

I find that the tenant is entitled to the return of her security deposit and interest held pursuant to Section 67 and grant a monetary order in the amount of **\$256.31** comprised of \$250.00 security deposit owed and the \$6.31 interest, as determined by the Deposit Interest Calculator on the Residential Tenancy Branch website <http://www.rto.gov.bc.ca/>.

This order must be served on the landlord and may be filed in the Provincial Court (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: December 13, 2010.

Dispute Resolution Officer