

## **DECISION**

**Dispute Codes:**                      **Landlord:** MND, MNDC, MNSD and FF  
**Tenant:** MNSD

### **Introduction**

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

By application received September 20, 2010, the landlords seek a Monetary Order for damage to the rental unit, damage or loss under the legislation or rental agreement, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

By earlier application received on September 17, 2010, the tenant seeks an order for return of her security deposit in double on the grounds that the landlords did not return it within 15 days of the latter of the end of the tenancy or receipt of the tenant's forwarding address.

### **Issues to be Decided**

Have the landlord's proven the damages claimed, that they were caused by the tenant, that the amounts claimed are proven and/or reasonable and did they take reasonable steps to minimize the claimed losses?

Is the payment and amount of a security deposit proven, when was the tenant's forwarding address provided and did the tenant agree to the landlords' retention of any portion of it?

## **Background, Evidence and Analysis**

This tenancy began on February 26, 2009 and ended on September 1, 2010. Rent was \$950 per month including utilities and the landlords hold a security deposit of \$425 paid on March 1, 2009.

As a matter of note, the present landlords purchased the property and took possession on May 1, 2010.

### Tenant's Application

During the hearing, the parties acknowledged payment and the amount of the security deposit.

The tenant gave evidence that she had provided the landlords with her forwarding address on September 6, 2010. The landlords' application was made on September 20, 2010 which I find to be within the 15 days within which they are permitted to file for dispute resolution to claim on the security deposit under section 38(1) of the Act. Therefore, the tenant's claim for return of the security deposit in double under section 38(6) of the Act is dismissed.

### Landlords' Application

The landlords submitted claims for damage to the rental unit and damage or loss under the legislation or rental agreement on which I find as follows:

**One day's rent for overholding - \$28.33.** The parties concur that the tenancy was to end on August 31, 2010 but that the tenant was unable to complete the move-out until the evening of September 1, 2010. The tenant stated that she interrupted the landlords' statement that they would not put her out on the street to mean they intended the extra day to be free. I find that, without expressed assurance that overholding time would be free, it is reasonable to conclude that the landlords are entitled to the per diem rent. This claim is allowed.

**General Cleaning - \$150.** The landlords make claim that it took five hours at \$30 per hour to complete the cleaning of the rental unit after the tenant had left. The tenant

stated that the cleaning had been completed and that the landlords had, in fact, complimented her mother on the work. On the basis of photographic evidence and a detailed room-by-room itemization of cleaning deficiencies, I prefer the evidence of the landlord and find that further cleaning was required; however I reduce the award on this claim to \$100.

**Replacement of Flooring – Approximately \$1,000.** The landlords submitted extensive photographic evidence of stains and tattering of the carpets in the rental unit. The tenant stated that the staining had been present when she moved in and some had been noted on the move-in condition inspection report. The landlords stated that the damage was substantially beyond that indicated on the inspection report and that the previous owner had examined the flooring and confirmed considerable additional damage.

While the landlords stated that their initial estimate was for replacement of the carpeting with budget grade product, they had elected to proceed to replace it with laminate flooring. I accept the evidence of the landlords that the floor was approximately five years old and depreciated by at least half of its normal life. Taking that into account and the landlords' estimate that – except for the additional damage caused by the tenant – they could have gotten another two years service from the carpet, I award \$200 on this claim.

**Painting.** The landlords stated that damage from staining and picture hanging on the walls required repainting of the rental unit. However, as the unit had last been painted in 2005 and standard depreciation tables place the useful life of interior paint at four years, I find that the paint was fully depreciated and make no award on this claim.

**Filing fee - \$50.** While the landlords' application has succeeded on its merits, I find that they contributed to this dispute by failing to complete the move-out condition inspection report during their final walk-through with the tenant who subsequently declined to return to the rental unit for that purpose. Therefore, I find the landlords' filing fee should be split equally between the parties and allow \$25 on this claim.

Thus, I find that accounts balance as follows:

| <b>Tenant's credit</b>              |              |                 |
|-------------------------------------|--------------|-----------------|
| Security deposit (No interest due)  | \$425.00     | \$425.00        |
| <b>Award to landlord</b>            |              |                 |
| Per diem rent for September 1, 2010 | \$ 28.33     |                 |
| General cleaning                    | 100.00       |                 |
| Portion of floor replacement        | 200.00       |                 |
| One-half of filing fee              | <u>25.00</u> |                 |
| Sub total                           | \$353.33     | - 353.33        |
| <b>BALANCE DUE TO TENANT</b>        |              | <b>\$ 71.67</b> |

## Conclusion

In order to bring this matter to conclusion, the tenant's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for \$71.67 for service on the landlords.

January 20, 2011