



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MND, MNR, MNSD, FF

Introduction

The landlord claims a monetary order for damages, unpaid rent and recovery of the filing fee. The landlord also seeks to retain the security deposit.

All parties appeared the hearing of this matter and I am therefore satisfied that the tenants were duly served with Notice of this hearing as required by Act.

All parties were sworn and gave evidence under oath.

Issue(s) to be Decided

Is the landlord entitled to the Orders sought?

Background and Evidence

The landlord submits that the tenants paid a security deposit of \$650.00 on May 10, 2009. The landlord testified that the tenants left the rental unit and an unclean and damaged condition and that they did not pay all of the rent due for the final month of tenancy.

The landlord claims the following sums:

Carpet Shampooing	\$140.00
Repair damage to door	63.81
Repair burn mark on Coffee Table	200.00
Garage and Entry FOBS lost by tenants	150.00
Towels, Cutlery, Glasses	689.94
Rent for June (balance remaining owing)	50.00
Total	\$1293.75

The landlord submitted receipts for the items claims save for the coffee table repair which they say is an estimate. The landlord submits that she intends to have the coffee table refinished as it matches with the end tables and the landlord did not want to replace the entire set.

The landlord testified that the two tenants were each provided with 2 FOBS, one for the garage and one for the entry none of which were returned.

The landlord submitted a document signed by herself and the tenant SW on June 30, 2010 outlining the repairs, cleaning and replacement to be done: Carpets cleaned, door damage, coffee table damage, missing cutlery, dishes, pots and pans, FOB missing and Garage door FOB missing.

The tenant SW says she signed the paper submitted by the landlord with respect to the damaged/missing items under duress. The tenant says the landlord made her sit down and go over the list while the landlord's husband was throwing things around the rental unit. SW says she felt threatened and she signed the paper.

The tenants submit that the carpets were not cleaned when they moved into the rental unit and that if the carpets are dirty that is normal wear and tear. The tenants submit that the landlord said the damaged coffee table was caused by a cigarette when it was actually caused by a candle that burnt down and this is evidence as there is a ring shaped damage to the coffee table.

The tenants say they did not get garage fobs because neither of them own vehicles. Further, the tenants take exception to the number of towels purchased by the landlord. The tenants say there were never any facecloths and only 8 towels yet the landlord is now claiming the cost of 26 towels.

Analysis

The landlord bears the burden of proving her claims. I find that the evidence of both parties is that the tenants did not shampoo the carpets upon vacating the rental unit; that they did cause damage to the door and coffee table and they owe \$50.00 in rent.

With respect to the missing FOB I find that SW agreed on the June 30, 2010 list that 1 entry and one garage door opener was missing. While SW now says she signed this document "under duress" because she was feeling threatened by the landlord's husband's actions she agrees that even though she felt threatened she did not call the police. Duress is the use of force, imprisonment or threats carried out to compel a

person to act contrary to his or her wishes. If duress is used to get someone to sign an agreement a Court may find the agreement to be void. I find that the tenant, although she has claimed duress, has failed to show that the landlord compelled her to sign the list of missing or damaged items by threats, force or imprisonment. I therefore accept this list as an accurate reflection of some of the damage and cleaning left by the tenants.

With respect to the tenants' assertion that carpet cleaning should not be required because dirty carpets are a normal wear and tear, Residential Tenancy policy states that tenants are required to maintain "reasonable health, cleanliness and sanitary standards" throughout the rental unit. Tenants are responsible for paying cleaning costs where the property is left at the end of the tenancy in a condition that does not comply with that standard. Tenants are not responsible for reasonable wear and tear to the rental unit, or for cleaning to bring the premises to a higher standard than that set out in the Residential Tenancy Act or Manufactured Home Park Tenancy Act (the Legislation).

Reasonable wear and tear refers to natural deterioration that occurs due to aging and other natural forces, where tenants have used the premises in a reasonable fashion. The tenant is responsible for periodic cleaning of the carpets to maintain reasonable standards of cleanliness. At the end of the tenancy tenants will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year. I therefore find that tenants are responsible for cleaning the carpets.

With respect to the missing items, the testimony of the landlord and the tenants conflicts. The onus or burden of proof is on the party making the claim. When one party provides testimony of the events in one way and the other party provides an equally probable but different explanation of the events, the party making the claim has not met the burden on a balance of probabilities and the claim fails. I am therefore not satisfied with the landlord's evidence of all of the items missing. However based on the testimony of both parties, it is clear that some items were missing and I will allow a nominal sum in this regard.

In total I will make the following awards:

Carpet Shampooing	\$140.00
Repair damage to door	63.81
Repair burn mark on Coffee Table	200.00
1 Garage and 1 Entry FOB	100.00
Towels, Cutlery, Glasses	100.00
Rent for June (balance remaining owing)	50.00
Total	\$653.81

Conclusion

The landlord holds a security deposit of \$650.00 I will issue a monetary award in the sum of \$53.81 which sum includes the \$50.00 filing fee the landlord has paid for this application.

The landlord is provided with a formal copy of an order for the total monetary award as set out above. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Provincial Court of British Columbia.