



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MND, MNDC, FF

Introduction

This hearing was convened by way of conference call to deal with the landlords' application for a monetary order for damage to the unit, site or property; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the tenant for the cost of this application.

Both landlords attended the conference call hearing, gave affirmed testimony and provided an evidence package in advance of the hearing. Despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents by registered mail, the tenant did not attend the conference call hearing. All information and testimony provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Are the landlords entitled to a monetary order for damage to the unit, site or property?
Are the landlords entitled to a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Background and Evidence

This fixed-term tenancy began on September 1, 2008 and ended on August 31, 2010. Rent in the amount of \$1,300.00 was payable in advance on the 1st day of each month, however the tenant pre-paid 2 years of rent at the beginning of the tenancy with a security deposit in the amount of \$650.00 and a pet damage deposit in the amount of \$250.00. The parties conducted a move-in inspection report, but not a move-out condition inspection report.

The landlords testified that they did not know the tenants had moved out and believed they moved out about 2 days before the end of the fixed term. They went into the unit

on September 1, 2010 at the end of the fixed-term and discovered that the unit had not been cleaned and garbage remained inside the unit.

The landlords employed 2 people to clean the unit. They stated that before the tenants moved in the unit was immaculate with new paint and flooring. They also stated that the tenants' two dogs had been locked in a bedroom during the day while the tenants were at work, and they also had a snake. A receipt for the cleaning was provided in advance of the hearing in the amount of \$1,440.00 which is broken down on a "Weekly Time Sheet" for 6 days and a total of 80 hours at \$18.00 per hour.

The female landlord testified that the tenant never cleaned the toilet, and had to replace it; the soiled condition was described as extreme. A receipt from Rona was also provided in the amount of \$147.90 dated September 6, 2010 for the purchase of a new toilet.

The landlords further testified that they had to replace the carpet in the bedroom where the animals were kept. They also testified that the linoleum in the kitchen and dining room were cut up, and they eventually found skates that they are sure caused the damage to the linoleum. They provided a receipt for \$2,140.05 for the cost of replacing the flooring.

The tenants also left a lot of garbage, about 30 bags in the unit, and the landlords have provided a receipt for \$17.00 for disposing of them at the local landfill.

The landlords testified that they did not complete a move-out condition inspection report because the tenants left without notifying them and did not leave a forwarding address. The landlords are not aware where the tenants have moved to, and have abandoned the rental unit.

The landlords claim \$1,440.00 for cleaning; \$2,140.00 for floor replacement; \$147.90 for a new toilet; and \$17.00 for the trip to the local landfill, for a total of \$3,744.90.

Analysis

The *Residential Tenancy Act* states that:

37 (2) When a tenant vacates a rental unit, the tenant must

- (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and

- (b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

Further, with respect to the security deposit and pet damage deposit held in trust by the landlords:

36 (2) Unless the tenant has abandoned the rental unit, the right of the landlord to claim against a security deposit or pet damage deposit, or both for damage to residential property is extinguished if the landlord

- (a) does not comply with section 35 (2) [*2 opportunities for inspection*],
- (b) having complied with section 35 (2), does not participate on either occasion, or
- (c) having made an inspection with the tenant, does not complete the condition inspection report and give the tenant a copy of it in accordance with the regulations.

In the circumstances, and in the absence of evidence to the contrary, I find that the tenants abandoned the rental unit in a state that was beyond reasonable wear and tear and the landlords have been required to correct damage and clean the rental unit after the tenants vacated.

I further find that the landlords have made out their claim for damages and have proven the costs associated with those damages. The landlords are also entitled to recovery of the \$50.00 filing fee.

Conclusion

For the reasons set out above, I order that the landlords retain the security deposit and pet damage deposit and interest in the sum of \$905.64 in partial satisfaction of the claim and I grant the landlords an order under section 67 of the *Residential Tenancy Act* for the balance due of \$2,889.26. This order may be filed in the Provincial Court of British Columbia, Small Claims division 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: February 11, 2011.

Residential Tenancy Branch