



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD, FF

Introduction

This matter dealt with an application by the Landlord to retain the Tenant's security deposit and recover the filing fee for this proceeding.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on November 18, 2010. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded with both the Landlord and the Tenant in attendance.

Issues(s) to be Decided

1. Is the Landlord entitled to retain all or part of the Tenant's security deposit?

Background and Evidence

This tenancy started on April 1, 2008 as a fixed term tenancy for 1 year and then was renewed as a month to month tenancy. The tenancy ended October 31, 2010. Rent was \$1,385.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$692.50 on March 23, 2008.

The Tenant said that he moved out of the rental unit on October 30, 2010 and gave the Landlord a forwarding address in writing on the move out inspection report dated October 30, 2010. The Landlord said there was move in inspection report completed and signed by both the Tenant and the Landlord. The Tenant said he agreed that the move in report was completed and the report showed that the rental unit was in satisfactory condition. The Landlord said the rental unit was brand new and this Tenant was the first tenant to occupy the unit. The Landlord said a move out inspection report was completed and signed on October 30, 2010 by both parties and in that report the Tenant agreed to deduct \$140.00 plus HST for painting and \$15.00 plus HST for light bulb replacement from the security deposit. The Tenant did not dispute this. The Landlord continued to say that he has kept the balance of the security deposit and accrued interest in the amount of \$526.70 on deposit in a trust account while he made this application. He said he made the application within the 15 days following the end of the tenancy and receiving the Tenants forwarding address. The Landlord said the Tenancy ended October 31, 2010 and he made the application on November 15, 2010.

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The Tenant agreed with what the Landlord had testified regarding the security deposit and the inspection reports.

The Landlord continued to say he made the application to retain the Tenant's security deposit because the hardwood floors in the unit were damaged. He said the damage was scratches in the wood from furniture being moved on the floors. The Landlord said the cost to replace the wood floor is \$3,000.00 plus HST and the cost to refinish the floor is \$1,200.00 plus HST. The Landlord continued to say that there was a problem with the wood used in the floors throughout the rental complex as the wood is soft and it scratched easily. He said they are dealing with this issue in a number of units. The Landlord also said the tenancy agreement has a clause in it that states pads are to be used on the furniture to protect the floors from scratches. In addition the Landlord said it was the Tenant's responsibility to see any damage to the floors and to maintain the floors in good condition.

The Tenant said he had used furniture pads purchased at IKEA for the furniture legs to protect the floors from scratching. The Tenant continued to say that he had not been given any special instruction about the floors until he moved out of the unit. He said if he had been told the floors had a problem he would have taken additional precautions to protect the floors. The Tenant said he believes the damage to the floors are normal wear and tear considering the Landlord has said there is a problem with the hardness of the wood used in the floors. The Tenant submitted photographs to show the scratches were in a small area and that the scratches could be considered normal wear and tear. The Tenant concluded by saying he was a good tenant, he paid his rent on time and he cleaned the rental unit when he moved out. The Landlord said he agreed that the tenancy had been a good relationship.

Analysis

Section 37 (2) says 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.

After careful consideration of the testimony and evidence submitted by both parties it is apparent that the quality of the flooring materials is the cause of this issue. The Landlord testified that the flooring materials are known to be soft and scratch easily and there are a number of other disputes regarding the floors in the rental complex. The Tenant testified that he used furniture pads on his furniture and he believes the

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scratches on the floors are normal wear and tear given the quality of the flooring material. Given that the Tenant did what was requested by the tenancy agreement to protect the floors and he was not told that the floors were soft and easily scratched until he moved out, I find that the Tenant acted in a reasonable manner and I accept his testimony that the scratches in the floors are normal wear and tear given the quality of the flooring materials. As a result I dismiss the Landlord's application as he has not established grounds to prove that the scratches in the floor are a result of more than normal wear and tear given the quality of the materials used in the floors. I order the Landlord to return the balance of the Tenant's security deposit and accrued interest in the amount of \$526.70.

As the Landlord was not successful in this matter I further order the Landlord to bear the cost of the filing fee of \$50.00 for this proceeding, which the Landlord paid November 15, 2010. Pursuant to section 67 a monetary order for \$526.70 has been issued to the Tenant.

Conclusion

I dismiss the Landlord's application without leave to reapply.

Pursuant to sections 67 of the Act, I grant a Monetary Order for \$526.70 to the Tenant. The order must be served on the Respondent and is enforceable through the Provincial Court of British Columbia (small claims court) 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*.

Dispute Resolution Officer