



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

Dispute Codes: MNR; MNDC, MNSD; FF

Introduction

This is the Landlord's application for a Monetary Order for unpaid utilities; for compensation for damage or loss under the Act, regulation or tenancy agreement; to apply the security deposit in partial satisfaction of his monetary award; and to recover the cost of the filing fee from the Tenants.

The parties gave affirmed testimony at the Hearing.

Issues to be Decided

Is the Landlord entitled to a monetary award pursuant to the provisions of Sections 38, 67 and 72 of the Act?

Background and Evidence

This tenancy started on December 1, 2009 and ended on November 1, 2010. Rent was \$1,600.00 per month, which did not include utilities. The Tenants paid a security deposit in the amount of \$800.00 at the beginning of the tenancy.

The Landlord seeks an award for the Tenants' share of unpaid utilities in the amount of \$235.80. The Tenants agree that they owe this amount for utilities. They testified that they were expecting to pay for utilities, but had not been provided with a copy of the utility bill until served with the Landlord's evidence package.

The Landlord seeks to recover the cost of the \$50.00 filing fee and the cost of developing photographs (\$25.13) and sending the Notice of Hearing documents to the Tenants by registered mail (\$12.25).

The Landlord testified that the walls were professionally painted in October, 2007, and were in good condition when the Tenants moved into the rental unit. The Tenants

asked the Landlord if they could paint the walls a different colour and the Landlord gave them permission to do so. He stated that the Tenants did a poor job of painting and that repainting and touch-ups are required on some walls, baseboards and ceilings. The Landlord provided photographs of the walls and trim, and stated that they were taken at the end of the tenancy. The Landlord provided estimates from 4 different painters. The estimates range from \$560.00 to \$2,016.00. The painting and touch-ups have not yet been done. The Landlord didn't indicate how much he was seeking for this portion of his application.

The Tenants agreed that there was mismatched paint on one wall in the front hallway that would require the wall to be repainted, and that there were some minor touch-ups required on baseboards and trim. They did not agree that the walls and trim needed the amount of touch-up that the Landlord is claiming. The Tenants questioned when the photographs were taken and suggested that they were taken before the Tenants had finished painting.

Analysis

The Tenants do not dispute the Landlord's claim for unpaid utilities in the amount of \$235.80. Therefore, this portion of the Landlord's claim is granted.

The Landlord agreed to allow the Tenants to paint the rental unit. The Landlord did not give the Tenants specific instruction as to how the walls were to be painted. The Landlord knew that the Tenants were not professional painters and cannot expect the finished product to be of professional quality. The Landlord has not yet done the touch up or repainted the walls at the rental unit and therefore has not proven a loss.

Residential Tenancy Branch Policy Guideline 37 provides a useful life of interior paint of 4 years. The Landlord has not repainted or done the touch-ups since painting in October 2007. For the reasons stated above, this portion of the Landlord's application is dismissed.

The Landlord has been largely unsuccessful in his application. The Tenants agreed to the payment of the utility bill and I am not convinced that the Landlord's application was necessary in order to deduct that amount from the security deposit, as a Tenant can agree in writing to deductions from a security deposit. Therefore, I dismiss the Landlords' application to recover the cost of the filing fee, developing photographs and the cost of serving the Tenants with the Notice of Hearing documents.

Pursuant to the provisions of Section 72(2)(b) of the Act, the Landlord may deduct his monetary award of \$235.80 from the security deposit. The balance of the security deposit must be returned to the Tenants. No interest has accrued on the security deposit.

I hereby provide the Tenants with a Monetary Order against the Landlord in the amount of \$562.20, representing return of the residue of the security deposit after deducting the Landlord's monetary award.

Conclusion

Pursuant to the provisions of Section 72(2)(b) of the Act, the Landlord may deduct his monetary award of **\$235.80** from the security deposit.

I hereby provide the Tenants a Monetary Order in the amount of **\$562.20** against the Landlord. This Order must be served on the Landlord and may be filed in the Provincial Court of British Columbia (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: March 24, 2011.
