



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes: MNR, MND, MNDC, MNSD, FF

Introduction

This hearing dealt with the landlords' application for a monetary order as compensation for unpaid rent or utilities / compensation for damage to the unit, site or property / compensation for damage or loss under the Act, regulation or tenancy agreement / retention of the combined security and pet damage deposit / and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

Issues to be decided

- Whether the landlords are entitled to any or all of the above under the Act, Regulation or tenancy agreement

Background and Evidence

Pursuant to the first written tenancy agreement, the fixed term of tenancy was from April 1, 2010 to March 31, 2011. Monthly rent was \$1,100.00. A combined security and pet damage deposit was collected in the amount of \$650.00. A move-in condition inspection and report were completed with the participation of both parties.

A second tenancy agreement was entered into on or about June 2, 2010, at such time as the size of the space rented was increased and the monthly rent was increased to \$1,600.00. An additional combined security and pet damage deposit was collected in the amount of \$250.00. In total, the combined security and pet damage deposit collected is \$900.00. The tenants vacated the unit towards the end of February 2011. A move-out condition inspection and report were completed by the landlords without the participation of the tenants. The parties presented conflicting testimony in regard to the reason(s) why the tenants did not participate.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

During the hearing the female landlord present at the hearing, "LAL" withdrew the following aspects of the landlords' original application:

\$120.00: switch for the oven light

\$100.00: new door hinges

\$110.00: heat lamps

Section 63 of the Act provides that the parties may undertake to settle their dispute during a hearing. Pursuant to this provision, during the hearing parties reached agreement limited to the following aspects of the landlords' application:

\$100.00: missing or broken knobs over the stove. The parties agreed that the tenants will be responsible for this cost in the limited amount of **\$30.00***.

\$20.00*: garbage to the dump. The parties agreed that the tenants will be responsible for the full amount claimed.

\$300.00: remove goat pen and planters. The parties agreed that the tenants will be responsible for this cost in the limited amount of **\$100.00***.

\$40.00*: weather stripping. The parties agreed that the tenants will be responsible for the full amount claimed.

Total amount agreed to between the parties: **\$190.00***

Based on the documentary evidence and testimony of the parties, the several remaining aspects of the landlords' claim and my findings around each are set out below.

\$200.00: damaged siding. While the landlord testified that as repairs have not been undertaken, and no costs have presently therefore been incurred, the tenants acknowledged that they may be responsible for some portion of this damage. In the result, I find that the landlords have established entitlement to compensation in the limited amount of **\$50.00***.

\$300.00: outstanding rent. This amount concerns a holdback of \$150.00 in the payment of rent for each of the months of January and February 2011. The tenants testified that a verbal agreement was reached in this regard with male landlord "BBL," who was not present to testify at the hearing. The female landlord present at the hearing, "LAL" disputed that the male landlord had entered into any such agreement

with the tenants. In view of the conflicting testimony, a history of discord between the parties around payment of rent, and in the absence of any documentary evidence from either party, I find on a balance of probabilities that the landlords have established entitlement limited to **\$150.00***, which is half the amount claimed.

\$441.37*: *outstanding hydro*. The tenants mused that it was “kind” of the landlords to pay this account and did not dispute that the cost of these utilities arose during the period of time while they were tenants. Accordingly, I find on a balance of probabilities that the landlords have established entitlement to the full amount claimed.

\$120.00: *hot tub acrylic repair kit*. The landlord declined to accept a proposal from the tenants to resolve this aspect of the dispute. Further, the landlord present at the hearing acknowledged that the cost identified is an estimate only, and that no repairs have presently been undertaken. On a balance of probabilities I find the landlords have established entitlement limited to **\$60.00*** which is half the amount claimed.

\$366.00: *carpet cleaning*. The tenants testified that they undertook to clean the carpets themselves at the end of tenancy. However, the landlord testified that the carpets were not clean when tenancy ended, and the move-out condition inspection report notes that carpets were “not shampooed.” The landlord also testified that she had the carpets cleaned only very recently. Based on the documentary evidence and testimony, and in the absence of a receipt to support any particular cost incurred, I find on a balance of probabilities that the landlords have established entitlement limited to **\$183.00***, which is half the amount claimed.

\$200.00: *repair of brick molding on doors + doorstep plate*. In the absence of sufficient documentary evidence to support the allegation that the tenants are responsible for this damage, or evidence of any cost that has been incurred by the landlords for undertaking related repairs, this aspect of the application is hereby dismissed.

\$650.00: *house cleaning and mould removal*. I find there is insufficient evidence that mould was not in existence prior to the time when the tenancy began or, further, that the tenants’ occupancy of the unit contributed to the growth of mould. Further, while I find that the move-out condition inspection report documents the need for certain cleaning, there are no receipts in support of any costs that may have been incurred by the landlords for either, related supplies or professional cleaners. On a balance of probabilities I find that the landlords have established entitlement to compensation limited to **\$160.00***, calculated on the basis of 8 hours at a rate of \$20.00 per hour.

\$810.00: agent's fee. Section 72 of the Act addresses **Director's orders: fees and monetary orders**. With the exception of the filing fee for an application for dispute resolution, the Act does not provide for the award of costs associated with litigation to either party to a dispute. Accordingly, this aspect of the claim is hereby dismissed.

\$1,227.63: replacement of dining room & kitchen floor. The landlord testified that replacement of laminate flooring will be necessary as a result, largely, of wear and tear from the tenants' pets. While the landlord testified that no replacement of any flooring has presently taken place, I note that the move-out condition inspection report documents some damage to laminate flooring. On a balance of probabilities I find the landlords have established entitlement limited to \$200.00*.

\$50.00*: filing fee. As the landlords have achieved a measure of success with this application, I find that they have established entitlement to recovery of the full amount of the filing fee.

Following from all of the above, I find that the landlords have established a claim of \$1,484.37. I order that the landlords retain the combined security and pet damage deposit of \$900.00, and I grant the landlords a monetary order under section 67 of the Act for the balance owed of \$584.37 (\$1,484.37 - \$900.00).

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlords in the amount of \$584.37. Should it be necessary, this order may be served on the tenants, filed in the Small Claims Court 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*.

DATE: June 29, 2011

Residential Tenancy Branch