

DECISION

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

Introduction

This application was brought by the landlords on May 13, 2011 seeking a Monetary Order for damage to the rental unit, unpaid utilities, recovery of the filing fee for this proceeding, and authorization to retain the security and pet damage deposits in set off against the balance owed.

Issues to be Decided

This application requires a decision on whether the landlords are entitled to a Monetary Order for the damages and losses claimed taking into account whether damages are proven, attributable to the tenant, reasonable as to remediation costs, and whether the landlord has taken reasonable steps to minimize the losses claimed. Damage awards are also considered against reasonable wear and tear and depreciation and the burden of proof lies with the claimant.

Background, Evidence and Analysis

This tenancy began on May 1, 2009 and ended on May 1, 2011. Rent was \$1,995 per month and the landlords hold a security deposit of \$1,000 paid on March 28, 2009 and a pet damage deposit paid on April 25, 2010. As a matter of note, the rental unit was shared by the respondent tenant who lived downstairs and three of her family members who occupied the upstairs suite and who had left the tenancy some time earlier..

During the hearing, the landlords gave detailed evidence on each of the claims on which, taking into account the evidence of the tenant, the rental agreement, condition inspection reports and photographic evidence, I find as follows:

Unpaid utilities \$368.09. The male landlord noted that the rental agreement made the tenant responsible for utilities. He stated that the tenant did not put the water account unto her name until the second year of the tenancy. The tenant stated that when the landlord reminded her to do so after the first year, he said that he would cover the first year. The landlord stated that he did not recall that conversation and now claims the first year water billing. I find that if the landlords had not accepted the water bill in question, they would have taken some appropriate action at the time, at the very least by sending the tenant a written demand for the payment. In the absence of any such evidence, I accept the tenant's recollection as truth. Therefore, this claim is dismissed.

Yard clean up - \$150. Under the rental agreement, the tenant was responsible for routine yard maintenance. The parties concur that when the tenant left, the lawn was clearly in need of mowing. The landlords claim six hours labour at \$25 per hour to restore the rental unit to the condition it was in at the beginning of the tenancy. The tenant proposes that the claim is exaggerated and the exterior was in better condition that represented by the landlords. The tenant concedes \$50 for the lawn mowing. In the absence of definitive evidence, I find that the unkempt lawn would be consistent with some degree of neglect in the yard work and allow \$100 on this claim.

General cleaning - \$125. The landlords claim \$25 per hour for five hours work to clean the upper rental unit. The tenant objects on the grounds that she offered to return to satisfy any deficiencies on May 2, 2011 but the landlords declined. For that reason, and because she disagrees with the amount of compensation sought, the tenant contests this claim. I find that the tenancy ended at 1 p.m. May 1, 2011 when the tenant's right to occupancy ended and the landlords were under no obligation to accommodate the tenant's requires for further time to complete the cleaning. In addition, on the basis of photographic evidence showing the stove, window sills, under sink cupboard, etc., I find this claim to be quite reasonable. Therefore, it is allowed in full.

Carpet damage - \$200. This claim is a challenge to quantify. The landlords have submitted photographic evidence showing that a prominent area on one square foot of the carpet, new at the beginning of the tenancy, was marred with a number of apparent light burn marks.

As the landlords did not repair or replace the section and sold the property shortly after, then is no demonstrable monetary loss. However, the landlords believe the marks may have been a contributing factor to the house selling at something less than the asking price and believe they are entitled to some compensation for their efforts to restore the

carpet. I find that the carpet was fractionally devalued by the marks and I award nominal damages of \$100 on this claim.

Damage to laminate flooring - \$150. The landlords submitted a photograph of an area of laminate flooring showing some scratches which they thought to result from sliding furniture. By the same reasoning applied to the claim for the carpet marks, and taking into account effect of normal wear and tear and the fragility of laminate flooring, I will allow \$75 in nominal damages on this claim.

Filing fee - \$50. Having found fundamental merit in the application, I find that the landlords are entitled to recover the \$50 filing fee for this proceeding from the tenant.

Security and pet damage deposits – (\$1,200). As authorized under section 72 of the *Act*, I find that the landlords are entitled to retain the amount awarded from the security and pet damage deposits and must return the balance to the tenant forthwith.

Thus, I find that accounts balance as follows:

Tenant's credits		
Security deposit paid March 2, 2009 (No interest due)	\$1,000.00	
Pet damage deposit paid April 25, 2010 (No interest due)	<u>200.00</u>	
Sub total	\$1,200.00	\$1,200.00
Less award to landlords		
Yard clean up	\$ 100.00	
General cleaning	125.00	
Carpet damage	100.00	
Damage to laminate flooring	75.00	
Filing fee	<u>50.00</u>	
Sub total	\$ 450.00	- 450.00
TOTAL of deposits to be returned to tenant		\$ 750.00

Conclusion

The landlords are authorized to retain \$450.00 from the tenant's security deposit and must return \$750.00 to the tenant without delay.

The tenant's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia, for service on the landlords.

August 24, 2011