

## **DECISION**

**Dispute Codes:** MND, MNDC and FF

### **Introduction**

This application was brought by the landlord on May 19, 2011 seeking a Monetary Order for damage to the rental unit, damage or loss under the rental agreement and recovery of the filing fee for this proceeding.

As a matter of note, this tenancy was the subject of a hearing on May 4, 2011 on the tenant's application, as a result of which the tenant was awarded return of her security deposit in double under section 38(6) of the *Act* on the grounds that the landlord had retained the security deposit without making application for an order to claim on it.

### **Issues to be Decided**

This application requires a decision on whether the landlord is 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 November 1, 2009, although the tenant had shared the rental unit with the previous tenant from August of 2009. Rent was \$2,250 per month and the landlord had held a security deposit of \$1,050, the disposition of which was determined in the previous hearing.

The tenant shared the unit with a male occupant and they vacated the rental unit on November 1, 2010.

An accurate and fair adjudication of this matter was hampered by the fact that the landlord did not do move-in or move-out condition inspection reports, and the rental unit had been used as a show suite for several months after completion in approximately February of 2008.

The first tenant who moved in on or about October 1, 2008 participated in the hearing as a witness and gave evidence that there were marks on the walls and scratches in the laminate flooring when she moved in. Both she and the respondent tenant stated that they had asked the landlord do complete condition inspection reports, but he had not done so. The male occupant during the tenancy of the respondent tenant has gave evidence as did the realtor who had represented the landlord during the purchase of the unit prior to the first tenancy. The weight given to the photographic evidence must be limited by the consideration that the landlord had not provided the respondent tenant with copies.

During the hearing, the landlord submitted an invoice, numerous photographs and gave oral evidence on each of the claims on which I find as follows:

**Supply/install laminate flooring - \$1,507.50.** The landlord's photos showed some scuffing and scratching of the floors, the existence of which was acknowledged by the tenants who were adamant that the damage was present at the beginning of the both tenancies. The landlord stated that the amount claimed was high because his service provider had been unable to match the existing floor. The landlord's witness acknowledged some minor wear due to the rental unit being used as a show suite but claimed the condition had been worsened by the tenancy. In the absence of move-in move-out condition inspection reports and the opposed evidence of the parties, I must find that the landlord has not proven this claim and it is dismissed.

**Patching and painting walls - \$950.** I would note that standard depreciation tables place the useful life of an interior paint job in a rental unit at four years and the unit in this matter would have been approaching three years old at the conclusion of this tenancy. Beyond that, for the same reasons as stated with respect to the floors, I

cannot make an accurate determination as to how much damage may have been done by the tenant beyond normal wear and tear, I must dismiss this claim.

**Patch/paint frame of main entrance door - \$100.** Again, without comparative condition inspection reports and given completely opposed accounts by the parties, I cannot make a determination on this claim and it is dismissed.

**Carpet cleaning for two bedrooms - \$90.** The tenant stated that she had vacuumed the carpets but that she had not shampooed them. As standard practice, tenants are expected to have carpets shampooed at the conclusion of a tenancy. This claim is allowed.

**Supply/replace damaged door - \$250.** The landlord gave evidence that his service provider had advised him that holes in the bedroom door would cost more to repair than to replace the door. The male occupant agreed that he had hung a hook on the door and that he had removed it at the end of the tenancy leaving the two holes. This claim is allowed.

**Move-out fee - \$200.** The tenant stated that she had paid a move-in fee of \$200 when she moved into the building and that she did not pay the same fee when she moved out, leaving it for the landlord who did make the payment to the strata manager. I find that the tenant is responsible for this charge and the claim is allowed.

**Fine - \$200.** The landlord stated that because the tenant had not pre-booked the elevator for the move out, he was fined \$200 by the strata corporation. He read into the record a letter from the concierge reporting that he had advised the tenant in advance that the failure to book in advance could expose the landlord to the fine which the landlord stated that he had paid. I accept the evidence of the landlord on this question and I find that the \$200 loss was attributable to the tenant. This claim is allowed.

**Filing fee - \$50.** I find sufficient merit in the application to warrant the landlord recovering the filing fee from the tenant.

Thus, I find that the tenant owes to the landlord an amount calculated as follows:

Carpet cleaning	\$ 90.00
Supply/replace damaged door	250.00
Move out fee	200.00

Fine	200.00
Filing fee	50.00
<b>TOTAL</b>	<b>\$790.00</b>

## Conclusion

The landlord's copy of this decision is accompanied by a Monetary Order for **\$790.00** enforceable through the Provincial Court of British Columbia, for service on the tenant.

August 30 2011