



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied to keep all or part of the security deposit; and to recover the fee for filing this Application for Dispute Resolution. It is apparent that the Landlord is seeking compensation for damage to the rental unit, in the amount of \$1,720.00, and the Application for Dispute resolution has been amended accordingly.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask questions, and to make submissions to me.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to compensation for damages to the rental unit; to retain all or part of the security deposit paid by the Tenant; and to recover the filing fee for the cost of this Application for Dispute Resolution.

Background and Evidence

The Landlord and the Tenant agree that this tenancy began on May 01, 2009 and that it ended on May 30, 2011; and that the Tenant paid a security deposit of 700.00 and a pet damage deposit of \$700.00.

A condition inspection report was completed at the beginning of this tenancy, a copy of which was submitted in evidence. The report indicates the rental unit was in good condition at the start of the tenancy.

A condition inspection report was completed at the end of the tenancy by the Landlord, however it was not signed by the Tenant. The parties agree that the female Tenant had to leave the inspection prior to the completion of the inspection due to health issues. The parties agree that the Landlord did not provide the Tenant with a second opportunity to participate in a condition inspection report.

The Landlord is seeking compensation, in the amount of \$750.00. for painting the rental unit. The Landlord submitted photographs of the walls in the rental unit that show the walls/baseboard are gouged in several locations. The Tenant agreed that the photographs represent some of the marks on the walls in the rental unit although he does not recognize some of the damage to the walls. The Landlord submitted an estimate from a painter that supports the claim for \$750.00. The Landlord stated that the rental unit was newly painted four years ago, although one wall was repainted prior to the start of this tenancy.

The Landlord is seeking compensation, in the amount of \$160.00, for cleaning the carpet. The Landlord stated that the Tenants had cats and there was cat hair in the carpet, which required professional cleaning. The Landlord submitted a receipt to show that it incurred this expense.

The Tenant acknowledged that they had two cats but he stated the carpet did not require cleaning as they had personally washed the carpets at the beginning of April or May.

The Landlord is seeking compensation, in the amount of \$80.00. for cleaning the windows and blinds in the rental unit. The Landlord submitted a letter from the person who cleaned the unit that indicated this cleaning was needed. The Landlord submitted a receipt to show that it incurred this expense.

The Tenant acknowledged that they did not clean the blinds at the end of the tenancy although he contends the windows were cleaned. He stated that he was unable to find a business listing for the individual who cleaned the blinds/windows.

The Landlord is seeking compensation, in the amount of \$200.00. for repairing the floor in the rental unit. The Landlord submitted photographs of damage to laminate flooring and an estimate from a professional that supports the claim for \$200.00. The Tenant acknowledged damaging the floor and does not dispute the claim for \$200.00.

The Landlord is seeking compensation, in the amount of \$80.00. for repairing a cupboard in the rental unit. The Landlord submitted a photograph of a cupboard with an unattached hinge. The Landlord submitted an estimate from a professional that supports the claim for \$80.00.

The Tenant acknowledged that the cupboard broke during the tenancy, although he contends it broke as a result of normal wear and tear. He contends that it could be easily repaired with wood filler and contends that the \$80.00 claim is excessive. He submitted no evidence to suggest that the claim is excessive.

The Landlord is seeking compensation, in the amount of \$160.00, for repairing a mantle in the rental unit. The Landlord submitted a photograph of damage to the mantle. The Landlord submitted an estimate from a professional that supports the claim for \$160.00.

The Tenant stated that the mantle was damaged at the start of the tenancy, although he cannot explain why it was not noted on the condition inspection report at the start of the tenancy.

The Landlord is seeking compensation, in the amount of \$240.00, for repairing a banister in the rental unit. The Landlord submitted a photograph of damage to the banister and an estimate from a professional that supports the claim for \$240.00.

The Tenant stated that they did not cause the damage to the banister and that it must have occurred after they moved out. In support of this argument he pointed out that the photograph of the banister was taken after the new tenants had moved into the rental unit.

The Landlord agreed that the photographs of the banister and mantle that were submitted in evidence were taken after the new tenants moved in. She stated that she took photographs of these damages at the end of the tenancy but the photographs did not properly depict the damage so she took a second set of photographs at a later date.

Analysis

I find that the Tenant failed to comply with section 37(2) of the Act when they failed to repair the damage to the walls and trim at the end of the tenancy. In reaching this conclusion I was heavily influenced by the photographs that were submitted in evidence. Although the Tenant stated that he did not recognize all of the damages depicted in the photographs, I find that they show a pattern of damage to the walls/trim that exceeds normal wear and tear.

Claims for compensation related to damage to the rental unit are meant to compensate the injured party for their actual loss. In the case of fixtures in a rental unit, a claim for damage and loss is based on the depreciated value of the fixture and not based on the replacement cost. This is to reflect the useful life of fixtures, such as carpets and paint, which are depreciating all the time through normal wear and tear.

The Residential Tenancy Policy Guidelines show that the life expectancy of interior paint is four years, and I find this to be reasonable. The evidence shows that the majority of the rental unit has not been painted in four years. I therefore find that the paint in the majority of the rental unit has reached its life expectancy and I do not find that the Landlord is entitled to recover the cost of painting the unit.

Based on the evidence presented by the Tenant, I find that the Tenant cleaned the carpets within a month or two of this tenancy ending. I find that the Landlord submitted insufficient evidence to establish that the carpets needed additional cleaning at the end

of the tenancy. In reaching this conclusion I was heavily influenced by the absence of corroborating evidence, such as photographs, that shows the carpets required additional cleaning. In reaching this conclusion I was further influenced by the fact the section 37(2) of the *Act* simply requires tenants to leave a rental unit in reasonably clean condition. As the Landlord has failed to establish that the carpet was not left in reasonably clean condition, I dismiss the Landlord's application for compensation for cleaning the carpet.

After considering the contradictory evidence regarding the cleanliness of the windows and blinds, I find that the Tenant failed to comply with section 37(2) of the *Act* when they failed to clean the blinds and windows at the end of the tenancy. In reaching this conclusion I was heavily influenced by the letter and receipt from the individual who cleaned the blinds and windows. I find it highly unlikely that the Landlord would have paid to have the windows and blinds cleaned if they did not require cleaning. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the *Act*, which in these circumstances is the \$80.00 paid to clean the blinds/windows.

I placed no weight on the Tenant's argument that he could not find a business listing for the company who cleaned the rental unit, as cleaning services often do not advertise in yellow pages or obtain business licences.

Based on the undisputed evidence presented at the hearing, I find that the Tenant failed to comply with section 37(2) of the *Act* when they failed to repair the damage to the floor at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for repairing the floor, which in these circumstances is likely to be \$200.00.

I find that the Tenant failed to comply with section 37(2) of the *Act* when they failed to repair a damaged cupboard at the end of the tenancy. I find that the damage to the cupboard exceeds normal wear and tear, as hinges do not normally break free of the cupboard with normal use. In the absence of evidence from the Tenant that supports his submission that the claim is excessive, I find that the Landlord is entitled to compensation for repairing the cupboard, which in these circumstances is likely to be \$80.00.

I find that the Tenant failed to comply with section 37(2) of the *Act* when they failed to repair the damage to the mantle at the end of the tenancy. Based on the photograph that was submitted in evidence, I find that the damage to the mantle exceeds normal wear and tear. I therefore find that the Landlord is entitled to compensation for repairing the mantle, which in these circumstances is likely to be \$160.00.

I do not accept on the Tenant's submission that the mantle was damaged prior to the start of the tenancy. In reaching this conclusion I was heavily influenced by the Inspection Report that was completed at the start of the tenancy, in which no damage to the mantle was noted. In the absence of documentary evidence that contradicts this

report, I find that the report accurately represents the condition of the rental unit at the start of the tenancy.

I find that the Tenant failed to comply with section 37(2) of the *Act* when they failed to repair the damage to the banister at the end of the tenancy. Based on the photograph that was submitted in evidence, I find that the damage to the banister exceeds normal wear and tear. I therefore find that the Landlord is entitled to compensation for repairing the banister, which in these circumstances is likely to be \$240.00.

I do not accept the Tenant's submission that the banister was damaged after the end of the tenancy. In my view the photographs of the banister are not consistent with recent damage.

I find that the Landlord's application has merit, and I find that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$810.00, which is comprised of \$760.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.

I authorize the Landlord to retain \$810.00 from the Tenant's security deposit and pet damage deposit, pursuant to section 72(2) of the *Act*, in full satisfaction of this monetary claim.

Based on these determinations I grant the Tenant a monetary Order for the remainder of their pet damage deposit, in the amount of \$590.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia 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*.

Dated: September 20, 2011.

Residential Tenancy Branch