



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD

Introduction

This is the Landlord's application to retain the security deposit for damage to the rental unit.

The Landlord's agent gave affirmed testimony at the Hearing.

The Landlord's agent testified that the Notice of Hearing documents were mailed to the Tenant and the Tenant's Power of Attorney, via registered mail sent July 6, 2011, to the address for the Tenant's Power of Attorney which was provided by the Tenant on a document dated June 21, 2001. The Landlords provided a copy of the Power of Attorney document in evidence, along with the registered mail receipt.

Based on the affirmed testimony of the Landlord's agent and the documentary evidence provided by the Landlord, I am satisfied that the Tenant and the Tenants' Power of Attorney were sufficiently served, pursuant to the provisions of Section 71 of the Act, with the Notice of Hearing documents by registered mail. Service in this manner is deemed to be effected 5 days after mailing the documents. Despite being served with the Notice of Hearing documents, neither the Tenant, nor the Tenant's Power of Attorney signed into the teleconference and the Hearing proceeded in their absence.

Issues to be Decided

- Are the Landlords entitled to a monetary award for damage to the floors at the rental unit, and to set off that monetary award against the security deposit?

Background and Evidence

The Landlord's agent gave the following testimony and evidence:

This tenancy began on June 1, 2010 and ended on June 17, 2011. Monthly rent was \$2,450.00, due on the first day of each month. The Tenant paid a security deposit in the amount of \$1,225.00 on May 6, 2010.

The Tenant and the Landlord's agent did a walk-through of the rental unit on June 18, 2011, and the Landlord's agent noted that there was damage to the hardwood floors and a tile in the kitchen area. The Tenant at first told the Landlord's agent that she

believed the damage was normal wear and tear. Later on, she agreed that the damage in the second bedroom was more than normal wear and tear and she stated that the movers must have done the damage. No formal Condition Inspection Report was completed by the Landlord's agent and the Tenant on that day. The Landlord provided photographs of the floors in evidence.

The Landlord's agent attempted to contact the Tenant via e-mail to arrange for a final move-out inspection to be done. The Landlord provided copies of e-mails between the parties in evidence. The Tenant's Power of Attorney answered the e-mails on the Tenant's behalf and asked the Landlord's agent to stop corresponding with the Tenant and to go through him. The Tenant provided the Landlords with a Power of Attorney document dated June 21, appointing the Tenant's Power of Attorney, a copy of which was provided in evidence.

After providing three different options to perform a move-out condition inspection, on June 22, 2011, the Landlords provided the Tenant's Power of Attorney with a Notice of Final Opportunity to Schedule a Condition Inspection. A copy of the Notice was provided in evidence, indicating that the inspection would take place on June 25, 2011 at 3:0 p.m. Neither the Tenant nor her Power of Attorney attended at the rental unit for the condition inspection.

The Landlords had hired a professional inspector to prepare a Condition Inspection Report at the beginning of the tenancy, which the Landlords and Tenant signed. The Landlords hired the same professional inspector to conduct the final inspection. Copies of both of the inspection reports were provided in evidence.

The Landlords had estimates prepared for the repair of the hardwood and the chipped tile, copies of which were provided in evidence. The Landlords sent copies of the end of tenancy inspection report and the estimates to the Tenant's Power of Attorney.

The Landlords' application is for a monetary order in the amount of \$1,064.00 to repair the hardwood floors; \$50.00 to pay for the estimate; and \$50.00 to repair the chipped tile for a total award of \$1,164.00.

Instead of repairing the damaged floor, the Landlords replaced the woods because they were advised repair (i.e. sanding or buffing and refinishing) would not be satisfactory as it was a floating floor. The Landlords provided a receipt for the cost of removing the old floor in the second bedroom and installing a new floor and baseboards, in the amount of \$1,408.51.

Analysis

Based on the e-mails and documentation provided, I am satisfied that the Tenant's Power of Attorney is her agent for the purposes of the Act and that he was empowered by the Tenant to act on her behalf as agent with respect to matters surrounding the tenancy agreement.

The Landlords did not amend their application to increase their monetary claim. Based on the photographs and documents provided in evidence and in the absence of any evidence from the Tenant, I find that the Landlords have established a monetary claim for \$1,064.00, which is the estimate for the cost of repairing the hardwood floors. The Landlords did not provide sufficient evidence with respect to the chipped tile. It is clear from the inspection reports that the tile was chipped at some point during the tenancy, but the chipping in the photographs appears quite small and I find that it is normal wear and tear.

Pursuant to Section 72(2)(b) of the Act, the Landlords may apply the security deposit in satisfaction of the Landlords' monetary award. No interest has accrued on the security deposit.

I order the Landlords to return the balance of the security deposit to the Tenant forthwith, in the amount of \$186.00 (\$1,250.00 - \$1,064.00). I hereby provide the Tenant with a Monetary Order in that amount.

Conclusion

The Landlords are provided a monetary award in the amount of \$1,064.00. The Landlords may deduct that amount from the security deposit being held for the Tenant.

I hereby provide the Tenant a Monetary Order in the amount of \$186.00, being the balance of the security deposit after deducting the Landlords' monetary award, against the Landlords. This Order 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: October 26, 2011.

Residential Tenancy Branch