



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNDC, MNSD and FF

Introduction

This application was brought by the landlord on October 12, 2011 seeking a monetary award for loss of rent, costs of damages and cleaning the rental unit, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

As a matter of note, the landlord made reference to an evidence package submitted on December 15, 2011; however, the tenant stated he had not received it until three days before the hearing, rather than five days as required under the Rules of Procedure. Therefore, the landlord was permitted to present that portion of his evidence verbally.

Issue(s) to be Decided

This matter requires a decision on whether the landlord is entitled to a monetary award for the claims submitted and authorization to retain all or part of the security deposit in set off. Matters that must be taken into account include whether damages are proven, attributable to the tenant, reasonable as to amounts claimed and whether the claimant has taken reasonable steps to minimize losses. Claims also take into account depreciation and reasonable wear and tear and the burden of proof lies with the claimant.

Background, Evidence and Analysis

This tenancy began on December 15, 2010 and ended on October 1, 2011 pursuant to a Mutual Agreement to End Tenancy arrived at during a hearing on August 19, 2011,

although the tenant moved out some days earlier. The parties completed the move-out Condition Inspection Report on October 3, 2011. Rent was \$800 per month and the landlord holds a security deposit of \$400.

The landlord claims and I find as follows:

Loss of rent for October 2011 - \$800. The landlord claims loss of rent for October 2011 on the grounds that the rental unit was left in such a condition that it was not presentable for prospective tenants. However, the landlord has submitted no evidence that he advertised for new tenants. He stated that he had advertised on Used Victoria in October and was able to have a new tenant move in on November 15, 2011. The property was and remains listed for sale and the listing realtor participated in the hearing as a witness for the landlord. I find that the landlord was aware that the rental unit would be available six weeks before the tenancy ended. I further prefer the evidence of the tenant that the condition of the rental unit was of a standard that would have been reasonably acceptable for viewing by prospective tenants. Therefore, I find that by failure to advertise the rental unit in September 2011, the landlord has failed to take reasonable measures to minimize his loss as required under section 7(2) of the *Act*. Therefore, this claim is dismissed.

Replace blinds - \$287.84. The landlord claims this amount for replacement of blinds supported by photographic evidence of poorly fitted replacements installed by the tenant and one broken set. I find that the tenant had an obligation to leave blinds of the same fit and condition as when the tenancy began and this claim is allowed in full. The landlord has offered the unsuitable replacements to the tenant if he so chooses.

Carpet cleaning - \$112. The landlord claims \$100 for carpet cleaning on the grounds that the job the tenant did with a carpet cleaner, rented for \$54, left some staining on the carpets that had to be redone. The landlord sees some significance in the fact that the residual water after the second cleaning was black, but it is my understanding that such would be the case with any second carpet cleaning. I will allow half of this claim, \$66, on the grounds that only the spot cleaning of the stains was necessary.

Vinyl composition floor cleaning - \$168.00. The landlord has submitted a paid receipt for cleaning of vinyl flooring in the kitchen and bathroom, support by photographic evidence with a note that the floor was dirty and scuffed, although it is not obviously so on the photo. The tenant's witness stated that the landlord had advised

her that the type of flooring in question required a special treatment from time to time to maintain its lustre. The landlord stated that such treatment would not have been required at the time if the tenant had kept it cleaner. I find that the treatment in question falls more within the realm of maintenance duties of the landlord than housekeeping duties of the tenant and the claim is dismissed.

Wall repair - \$50. The landlord claims \$50 for his own efforts in repairing and painting a portion of the wall beside the refrigerator. The tenant stated that the mark in question was in such a position beside the fridge that he could not have caused it. The landlord submitted a written statement from the previous tenant who acted as the landlord's agent on the move-out inspection that concurred with the landlord's assessment. As the mark was relatively minor and could fall within the realm of normal wear and tear, and as there is some doubt as to whether it is attributable to the present tenant, this claim is dismissed.

General cleaning and dusting - \$210. The landlord initially requested \$50 on this claim and then revised it to request compensation for seven hours work at \$30 per hour. I find the hourly rate beyond the norm usually charged for general cleaning. In addition, as the rental unit was being prepared for showing for sale as well as for potential rental, I find that the owner would have prepared the rental unit to a higher standard but I do allow the initially claimed \$50.

Hydro bill – \$37.63. The tenant agreed that he owes this amount to the landlord.

Filing fee - \$50. As the application has succeeded on its merits, I find that the landlord is entitled to recover the filing fee for this proceeding from the tenant.

Security deposit – (\$400). As permitted by section 72(2) of the *Act*, I authorize the landlord to retain the security deposit in set off against the balance owed.

Thus, I find that the landlord is entitled to a monetary award calculated as follows:

Loss of rent	\$ 0.00
Carpet cleaning	66.00
Vinyl composition floor cleaning	0.00
Wall repair	0.00
General cleaing and dusting	50.00
Hydro bill	37.63
Filing fee	<u>50.00</u>
Sub total	\$491.47
Less retained security deposit (No interest due)	<u>- 400.00</u>
TOTAL	\$ 91.47

Conclusion

In addition to authorization to retain the tenant's security deposit in set off, the landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for \$91.47 for service on the tenant. .

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: December 23, 2011.

Residential Tenancy Branch