

DECISION

Dispute Codes:

Landlord's application: MNR; MND; MNSD; MNDC; FF

Tenant's application: MNSD; MNDC

Introduction

This Hearing was convened to consider cross applications. The Tenant seeks return of the security deposit and compensation for damage or loss under the Act, regulation or tenancy agreement.

The Landlord seeks a Monetary Order for unpaid utilities, damages to the rental property and compensation for damage or loss under the Act, regulation or tenancy agreement; to retain the security deposit in partial satisfaction of the Landlord's monetary award; and to recover the cost of the filing fee from the Tenant.

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

The Landlord's agents testified that the Notice of Hearing documents and copies of the Landlord's documentary evidence were mailed, by registered mail, to the Tenant at her forwarding address, on September 14, 2011. The Landlord's agents testified that the documents were returned unclaimed, and so the Landlord sent them again by registered mail on October 25, 2011. The Landlord provided copies of both of the registered mail receipts and tracking numbers in evidence.

I am satisfied that the Tenant was served with the Notice of Hearing documents in accordance with the provisions of Section 89(1(c) of the Act. Service in this manner is deemed to be effective 5 days after mailing the documents. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing continued in her absence.

The Tenant's application was scheduled to be heard on November 30, 2011, at 9:30 a.m. The Landlord's agents signed into the Hearing at 9:30 a.m. and were ready to proceed. By 9:40 am., the Tenant had not yet signed into the Hearing. Therefore the Tenant's application is dismissed without leave to reapply.

Issues to be Decided

- Are the Landlords entitled to a monetary award pursuant to the provisions of Section 67 of the Act?

Background and Evidence

The Landlord's agents provided the following testimony and documentary evidence:

The Landlord provided a copy of the tenancy agreement in evidence. The parties signed the agreement on June 15, 2009. The Tenant moved into the rental on July 15, 2009. Monthly rent was \$1,050.00 at the beginning of the tenancy, and was increased to \$1,060.00 on February 1, 2011. Rent did not include utilities. The Tenant paid a security deposit in the amount of \$525.00 on August 1, 2009. The tenancy ended on August 31, 2011.

A move-in condition inspection was conducted on July 15, 2009. On September 1, 2011, the parties met to conduct a move-out condition inspection. The Tenant noted on the move-out Condition Inspection Report that she did not agree that the report fairly represented the condition of the rental unit "because I cleaned and I didn't iron the drapes. I washed drapes 2 weeks ago, counter top little burnd should not be charged". The Tenant provided the Landlord with her forwarding address on the bottom of the Condition Inspection Report. A Copy of the Report was provided in evidence, along with photographs of the rental unit taken at the end of the tenancy.

The Landlord's agent testified that there are 10 panels of drapes in the rental unit. She stated that the Tenant cleaned the two panels beside the balcony doors, but did not clean the others. The Landlord's agent stated that the Landlord is not seeking compensation for having to iron the clean drapes. However, the Tenant did not clean the other 8 panels and the Landlord seeks compensation in the amount of **\$48.00** for cleaning those 8 panels. The Landlord provided a copy of the invoice for cleaning the drapery panels in evidence.

The Landlord's agent stated that the rental unit was not cleaned to an acceptable standard (the appliances, windows and balcony were all dirty). The Landlord's agent testified that the cleaner spent 5 hours cleaning the rental unit at the end of the tenancy, and the Landlord seeks **\$60.00** in compensation (\$12.00 per hour). The Landlord provided a copy of the invoice for the cleaning in evidence.

The Landlord's agent testified that the Tenant disposed of, or took, the element rings and the elements. She stated that the Tenant gave her some replacement rings, but they did not fit the stove so she gave them back to the Tenant. The Landlord provided a copy of the invoice for the elements and rings in evidence, in the amount of **\$55.05**.

The Landlord's agent testified that there were some small burn holes in the kitchen counter top that the Tenant had attempted to fill in with paint. The Landlord's agent

stated that the counter top had to be sanded and filled with wood filler which took 3 hours. The Landlord provided a copy of the invoice in the amount of **\$36.00** (3 hours at \$12.00 per hour).

At the time the Landlord filed its application, the Landlord sought to recover unpaid utilities from the Tenant and estimated that the unpaid utilities would be \$25.00 for the last period of the tenancy. The Landlord received the electric bill after filing its application, in the amount of \$26.71. The Landlord's agent testified that the Tenant paid \$26.00 last week, so the remaining amount owing is **\$.71**. The Landlord provided a copy of the electric bill in evidence.

The Landlord's agent testified that the rental unit was freshly painted on July 7, 2009, just before the Tenant moved in. She testified that the Tenant had applied putty to many nail holes and dings that she had put in the walls, but did not paint and therefore the Landlord had to paint the rental unit at the end of the tenancy. The Landlord provided an invoice for the cost of painting the rental unit in the amount of **\$340.00**.

In answer to the Tenant's written submission that the Landlord had failed to replace her carpets after a flood, the Landlord's agent testified that there was a water leak on the 4th floor shortly after the tenancy began, which affected 8 suites (including the Tenant's) in the rental property. She stated that the insurance company paid for re-carpeting the suites, but the Tenant refused new carpet except in her hallway.

Analysis

Based on the testimony and documentary evidence provided by the Landlord and its agents, I find that the Landlord has established its monetary claim for unpaid utilities, the cost of repairing the kitchen counter top, the cost of replacing the elements and rings on the stove, the cost of cleaning the 8 panels of drapes, and for 5 hours of cleaning.

With respect to the cost of painting the suite, I find that the Landlord has established a claim for ½ of that cost, in the amount of \$170.00. The Residential Tenancy Branch Policy Guidelines provide that indoor paint has a useful life of 4 years. The paint was 2 years old at the end of the tenancy and therefore had a useful remaining life of approximately 2 years.

The Landlord's application had merit and I find that it is entitled to recover the cost of its filing fee from the Tenant.

I find that the Landlord has established a monetary award, calculated as follows:

Cleaning the rental unit	\$60.00
Cleaning the drapes	\$48.00
Painting the rental unit	\$170.00
Cost of stove elements and rings	\$55.05
Cost of repairing the kitchen counter top	\$36.00
Unpaid utilities	\$.71
Recovery of the filing fee	<u>\$50.00</u>
TOTAL	\$419.76

The Landlord applied against the security deposit within 15 days of receiving the Tenant's forwarding address. The Landlord seeks to apply the security deposit in satisfaction of its monetary award. Pursuant to the provisions of Section 72 of the Act, the Landlord may deduct \$419.76 from the security deposit. I hereby order the Landlord to return the balance in the amount of **\$105.24** (\$525.00 - \$419.76) to the Tenant forthwith.

Conclusion

The Tenant's application is dismissed **without leave to reapply**.

I find that the Landlord has established a monetary award in the amount of \$419.76. I hereby provide the Tenant a Monetary Order in the amount of **\$105.24** representing return of the balance of the security deposit after deducting the Landlord's monetary award. After service of this Order upon the Landlord, the Order may be filed in the Provincial Court 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: December 05, 2011.

Residential Tenancy Branch