



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for compensation for repairs to the rental unit, to recover the filing fee for this proceeding and to keep the Tenants' security deposit in partial payment of those amounts.

At the beginning of the hearing, the Landlord sought to amend her application by seeking additional compensation for further damages (to a stove top and dishwasher kick plate). As the Tenants consented to this amendment, I granted the Landlord's application to make this amendment.

Issue(s) to be Decided

1. Is the Landlord entitled to compensation for damages to the rental unit and if so, how much?
2. Is the Landlord entitled to keep the Tenants' security deposit?

Background and Evidence

This 12 month fixed term tenancy started on September 30, 2010 and ended on September 29, 2011 when the Tenants moved out. Rent was \$1,575.00 per month payable in advance on the 1st day of each month. The Tenants paid a security deposit of \$787.50 at the beginning of the tenancy.

An agent for the Landlord completed a condition inspection report with the Tenants at the beginning of the tenancy. The report shows that the rental unit was in good condition at that time. The Tenants and the Landlord completed a condition inspection report at the end of the tenancy and some condition issues were noted on the report. The Tenants agreed that the move out report fairly represented the condition of the rental unit at the end of the tenancy however they claim that many of these condition issues already existed at the beginning of the tenancy. In particular, the Tenants claim that the move in inspection was brief and rushed and that the Landlord's agent overlooked a number of condition issues. The Tenants said they did not want to "nitpick" at the time and considered them to be "normal wear and tear" so they did not ask that these matters be recorded on the condition inspection report. The Landlord

claimed that the rental unit was only one year old at the beginning of the tenancy and in "pristine condition."

1. Door Repairs:

The Parties agree that on or about March 20, 2011, one of the Tenants left a pot of food cooking on the stove and fell asleep. The pot started to burn and the fire department was despatched and had to break the lock off of the door to gain access to the rental unit. The Landlord said the Tenants replaced the lock mechanism with an inferior one without hers or the Strata's consent. The Landlord also said the door handle was bent and had to be replaced and the door and frame had to be repainted. Consequently, the Landlord said she incurred expenses of \$95.20 for a new deadbolt lock, \$120.00 for repairs to the door, prepping it for painting and installing the new deadbolt lock and \$117.60 for painting the door (for a total of \$332.80). The Tenants denied that the door needed to be repainted and claimed that although the door handle was bent, it was still operational.

2. Interior Walls & Trim Repair:

The Landlord said that at the end of the tenancy, many of the walls had holes and gauges and the trim was also scraped. The Landlord provided copies of some photographs of the walls in the rental unit that she said she took on September 30, 2011 which she claimed were representative of the rental unit at a whole. The Landlord said she received three quotes to repair and repaint this damage and that she went with the cheapest quote for \$463.38.

The Tenants denied that the rental unit was in "pristine condition" at the beginning of the tenancy but said instead that there were holes in the walls where it appeared the previous Tenants had put nail holes and screws and a number of scrapes on the baseboards. The Tenants said they repaired these holes left by the previous tenants but admitted they did not repair nail holes they made during the tenancy. The Tenants also argued that the amount sought by the Landlord for filling holes and repainting was excessive given the size of the rental unit and given that only ½ of the walls in the rental unit were drywall (the other ½ being brick).

3. Roller Blind Repair:

The Landlord said that at the beginning of the tenancy a roller blind was only one year old and in good condition but at the end of the tenancy, it was jammed on an angle and would not go up or down. Consequently, the Landlord said she incurred expenses of \$78.40 to repair this blind.

The Tenants claim that the roller blind was in the same condition at the end of the tenancy as it was at the beginning of the tenancy, in that it would roll up on an angle.

4. Light Switch & Bulbs:

The Landlord said that at the end of the tenancy, a light switch was cracked and many of the light bulbs in the rental unit were burned out. Consequently, the Landlord said she incurred expenses of \$60.42 to replace those items plus \$20.00 for labour.

The Tenants claim that many of the pot lights were burned out at the beginning of the tenancy and that they did not know how to replace them. In any event, the Tenants said they also did not replace those bulbs because they did not use them but instead relied on floor lights. The Tenants said the light switch was cracked at the beginning of the tenancy but that it still works properly.

5. Dishwasher Kick plate:

The Landlord admitted that water damage to this item was not documented during the move out inspection because it was not discovered until the new tenants used the dishwasher for the first time. The Landlord said the new tenants discovered on October 1, 2011 that water was leaking under and in front of the dishwasher. The Landlord admitted that the dishwasher leak was caused by a broken door latch. The Landlord said that when the kick plate was removed it was water-swollen leading her to believe that the dishwasher had been leaking for some time but was never reported by the Tenants. The Landlord also said that the technician who repaired the dishwasher advised her that the latch may have broken due to "over soaping." Consequently, the Landlord sought compensation of \$415.00 to replace the kick plate.

The Tenants denied that the dishwasher leaked during the tenancy and denied that they "over-soaped." The Tenants said they used the dishwasher only once or twice per week and used soap tablets. The Tenants also said that during the move out inspection, a friend of the Landlord's turned the dishwasher on and off and it did not leak.

6. Glass Stove top:

The Landlord admitted that damage to this item was not documented during the move out inspection. The Landlord said she thought the stove top just needed a more thorough cleaning but later discovered that damages were permanent and that the stove top would have to be replaced at a cost of \$736.95. The Landlords said she believes the damage to the stove top may have occurred during the incident on March 20, 2011 when one of the Tenants left a pot burning on the stove.

The Tenants denied that they damaged the stove top and claimed that the stove top had many scratches on it at the beginning of the tenancy. The Tenants argued that all of the elements on the stove had approximately the same amount of wear with the larger, front

one having somewhat more wear and tear due to its being used more frequently. The Tenants argued that the Landlord and her friend inspected the stove top during the move out inspection and found it in good condition.

Analysis

Section 21 of the Regulations to the Act says that,

“a condition inspection report completed in accordance with this Part is evidence of the state of repair and condition of the rental unit or residential property on the date of inspection, unless either the landlord or the tenant has a preponderance of evidence to the contrary.”

Sections 32(3) and 32(4) of the Act say that a Tenant is responsible for damages caused by his act or neglect but is not responsible for reasonable wear and tear. RTB Policy Guideline #1 at p. 1 defines *reasonable wear and tear* as “natural deterioration that occurs due to aging and other natural forces, where the Tenant has used the premises in a reasonable fashion.”

1. Door Repairs:

The Parties agree that the Tenants were responsible for damages to a front door when the fire department had to force entry to the rental unit on March 20, 2011. The Tenants claim that they replaced the deadbolt lock and that there were no further damages other than a bent door handle which is still functional. The Landlord claimed that the deadbolt lock was supposed to be replaced with one that matched other units in the rental property but they did not do so. The Landlord also claimed that the door was also split and had to be repaired and repainted and the door handle replaced. The Landlord relied on a letter from the Strata dated March 24, 2011 and a letter from a contractor dated October 21, 2011. The Landlord's contractor did not attend the hearing to be cross-examined on his letter and therefore I find that it is hearsay and I give it little weight.

Although the letter from the Landlord's contractor states that the deadbolt lock must match others in the rental property, there is nothing to this effect in the letter from the Strata or in the by-law excerpts provided by the Landlord. Instead those excerpts only refer to the need to obtain the Strata's written permission to make alterations to doors that front on the common property. Consequently, I find that there is insufficient evidence to conclude that the lock installed by the Tenants on the rental unit door had to match those of other units as alleged by the Landlord and as a result, the Landlord's claim to recover expenses for a new deadbolt lock is dismissed.

However, based on the photographs provided by the Landlord, I find that additional repairs were necessary to re-glue the laminate that had separated from the door and to

refill and sand the damaged area around the deadbolt lock. The Tenants argued that the door did not have to be repainted because the damaged area of the door was concealed by a metal plate. However, I find that this is not the case. I find that the repairs to the door around the lock were necessary and required filling and sanding an area that exceeded the width of the metal plate. Consequently, I find that the Landlord is entitled to recover expenses for the door repair and painting. The amount claimed for the door repair (\$120.00) must be reduced, however because it includes amounts for replacing the lock. Consequently, I award the Landlord \$100.00 for the door repair and \$117.60 to repaint it or **\$217.60**.

The Landlord also sought \$225.00 to replace a door handle that was bent. I find that this damage was caused by the Tenants and is not reasonable wear and tear. The Tenants argued that this damage was not significant and that the handle was still functional. I find however, that the damage to the door handle is not minor and that the Landlord is entitled to replace it. Consequently, I find that the Landlord is entitled to recover \$225.00 plus \$35.00 for installation or **\$260.00**.

2. Interior Walls & Trim Repair:

The Landlord claimed that the Tenants damaged walls and baseboards during the tenancy. The Tenants admitted that they may have made some holes for hanging pictures and scratched some walls around the front entrance door when moving articles however they claimed that it was reasonable wear and tear. The Tenants also claimed that there were other holes and damages that existed at the beginning of the tenancy but which they did not add to the condition inspection report because they believed they were "normal wear and tear."

Section 21 of the Regulations to the Act (reproduced above) indicates that unless a Tenant has "a preponderance of evidence to the contrary," the information set out on the condition inspection report is the best evidence of the condition of the rental unit at that time. I find that the Tenants did not provide a preponderance of evidence to displace the information set out on the move in inspection report regarding the condition of the walls and trim. Consequently, I conclude that the walls and trim in the rental unit were in good condition at the beginning of the tenancy. Furthermore, based on the photographs of the Landlord, I find that the damages were not merely light scuffs or minor scrapes (ie. reasonable wear) but rather were gouges in wood and significant paint scrapes on the door frame, for example. Furthermore, the move out condition inspection report states that there also holes in the walls which the Tenants admitted they made and did not fill.

The Tenants also argued that the expenses claimed by the Landlord for these repairs were unreasonable however in the absence of any reliable corroborating evidence from the Tenants of what would be reasonable, I find that the Landlord is entitled to recover repair expenses of **\$463.38**.

3. Roller Blind Repair:

The condition inspection reports show that the roller blind was in good condition at the beginning of the tenancy but was damaged at the end of the tenancy. Although the Tenants argued that the blind was in the same condition at the end of the tenancy as it was at the beginning of the tenancy, they did not provide “a preponderance of evidence” to support this allegation. Consequently, I conclude that the Tenants damaged the blind and that they are responsible for the Landlord’s repair expenses of **\$78.40**.

4. Light Switch & Bulbs:

The condition inspection reports show that the lighting fixtures and bulbs were all in good condition at the beginning of the tenancy but that at the end of the tenancy a number of lights were blown out and a light switch was cracked. Although the Tenants argued that the light switch and light bulbs were in the same condition at the end of the tenancy as they were at the beginning of the tenancy, they did not provide “a preponderance of evidence” to support this allegation. Consequently, I find that the Landlord is entitled to recover her expenses of \$60.42 to replace those items plus \$20.00 for labour or **\$80.42**.

5. Dishwasher Kick plate:

The condition inspection reports show that the dishwasher was in good condition at the beginning *and* at the end of the tenancy. Landlord said that water damage to this item was not documented during the move out inspection because it was not discovered until the new tenants used the dishwasher for the first time. The Landlord argued that the water-swollen condition of the kick plate suggests that the dishwasher was leaking for some time. The Landlord relied on a witness statement of the subsequent tenant as evidence that the Tenants should have been aware of the leaking. However, this person did not give evidence at the hearing to be cross-examined on his statement and therefore I find that it is hearsay and I give it little weight.

I find that there is insufficient evidence to conclude that the Tenants were aware that the dishwasher was leaking and failed to report it or that the Landlord has provided a preponderance of evidence to displace the condition inspection report. Consequently, I conclude that the dishwasher kick plate was substantially in the same condition at the end of the tenancy as it was at the beginning of the tenancy and as a result, the Landlord’s claim for compensation to replace it is dismissed without leave to reapply.

6. Glass Stove top:

The condition inspection reports show that the stove cook top was in good condition at the beginning *and* at the end of the tenancy. The Landlord said she mistakenly believed that the discoloration on the stove top was dirt that could be removed by doing a more thorough cleaning but later discovered that the damage was permanent. I find,

however, that this does not constitute “a preponderance of evidence” required to displace the findings set out on the condition inspection report. Consequently, I conclude that the stove top was substantially in the same condition at the end of the tenancy as it was at the beginning of the tenancy and as a result, the Landlord’s claim for compensation to replace the stove top is dismissed without leave to reapply.

The Landlord also sought to recover expenses for photographs, photocopies and service expenses. However the Act does not make provision for the recovery of costs other than to recover the filing fee for the proceeding. Consequently, the Landlord’s application for these items is dismissed without leave to reapply, however I find that she is entitled pursuant to s. 72 of the Act to recover the **\$50.00** filing fee she paid for this proceeding. Consequently, I find that the Landlord has made out a total monetary claim for **\$1,149.80**. I Order the Landlord pursuant to s. 38(4) of the Act to keep the Tenants’ security deposit of \$787.50 in partial payment of the monetary award. The Landlord will receive a Monetary Order for the balance owing of \$362.30.

Conclusion

A Monetary Order in the amount of **\$362.30** has been issued to the Landlord and a copy of it must be served on the Tenants. If the amount is not paid by the Tenants, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: January 09, 2012.

Residential Tenancy Branch