



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 Landlords for compensation for cleaning and repair expenses, to recover the filing fee for this proceeding and to keep the Tenants' security deposit in partial payment of those amounts.

Issue(s) to be Decided

1. Are the Landlords entitled to compensation and if so, how much?
2. Are the Landlords entitled to keep the Tenants' security deposit?

Background and Evidence

The Tenant, R.B., moved into the rental property in November 2009 and resided there with another tenant who moved out sometime later. The Tenant, R.M., moved into the rental property on June 1, 2010 and a new tenancy agreement was entered into with both Tenants at that time. Rent was \$900.00 per month payable in advance on the last day of the preceding month. The Tenants paid a security deposit of \$450.00.

The Landlords said they reside in Saskatchewan and as a result, they relied on a relative of theirs to inspect the rental property on June 1, 2010 and were advised that everything appeared to be in good condition however a condition inspection report was not completed. In any event, the Landlords said the rental unit was only 4 years old at the beginning of the tenancy. The Landlords said they also relied on a relative of theirs to inspect the rental property at the end of September, 2011 with the Tenants but she did not complete a condition inspection report. The Landlords said their relative took some photographs of the rental unit on the day of the inspection.

The Landlords claimed that the Tenants did not leave the rental unit reasonably clean at the end of the tenancy (which the Tenants denied) so they hired cleaners to do carpet cleaning and general cleaning. The Landlords said the cleaners advised them that there were a number of damages and as they could not afford to hire someone to make repairs, the Landlords travelled from their residence to the rental unit to do them. Consequently, the Landlords sought to recover their expenses for gas and meals.

The Landlords claimed that the Tenants were responsible for the following damages to the rental unit:

- **Repairs to ducting altered by the Tenants.** The Landlords said the Tenants removed a section of the dryer vent and vented it into an adjacent room rather than out of the unit. The Landlords said a venetian blind was also damaged in the laundry room and they found a small amount of marijuana which led them to believe that the Tenants had intentionally tried to redirect the ducting out of a window. The Landlords said they spent \$11.19 for supplies and 1 ½ hour of their labour to repair the altered venting. The Tenants claimed that a piece of ducting came loose during the tenancy and that they tried to fix it as well as they could.
- **Repairs to a stand up pantry.** The Landlords said the Tenants knocked over a stand up pantry and in the process broke off a kick plate. The Landlords said they spent \$41.77 for supplies and 3 hours of their labour to repair the pantry. The Tenants denied knocking over the pantry and claimed that they had just moved it to remove some furniture.
- **Kitchen closet door.** The Landlords said the Tenants put a large hole in the kitchen closet door and that they spent \$66.07 for a replacement door and their labour to paint and hang the new door. The Tenants admitted that one of them put their fist through this door.
- **Kitchen counter top.** The Landlords said the kitchen counter top had a number of cut marks and chemical stains. The Landlords said they tried to remove the stains without success. The Landlords said the counter will have to be replaced however they did not provide an estimate for this cost. The Tenants denied making cut marks on the countertop but admitted that they spilled chemical cleaners on it that left large stains.
- **Kitchen linoleum flooring.** The Landlords said a section of the linoleum flooring in the kitchen was cut up and they had to try to glue sections of it back down. The Tenants admitted that they were responsible for this damage which they claimed occurred when they pulled the stove out to clean behind it.
- **Damage to dishwasher.** The Landlords said the dishwasher was 4 years old at the beginning of the tenancy but at the end of the tenancy, the door was broken, scratched and held together with duct tape. The Landlords said they had to replace the dishwasher at a cost of \$240.45. The Tenants claimed that the door latch broke as a result of normal use and that they taped it together so they could still use it. The Tenants admitted that they scratched the door when they tried to remove the tape.
- **Wall repairs.** The Landlords said that most of the walls in the rental unit had numerous gouges and large holes, some of which the Tenants had tried

unsuccessfully to repair. The Landlords said they had to patch the holes, sand them and repaint the walls. The Tenants claimed that any holes in the walls were merely from tacks and that there was only one large hole located in the living room wall which they had repaired. The Tenants admitted that they may have put scratches on the hallway walls from moving furniture but claimed that scratches on a master bedroom wall were there at the beginning of the tenancy.

- **Damaged Interior doors.** The Landlords said that a master bedroom door and a bathroom door (adjacent to the kitchen) had damages consistent with being kicked and had to be replaced at a cost of \$202.70. The Landlords said they also had to spend approximately 4 hours of their labour painting and re-hanging these doors. The Tenants claimed that they had no knowledge of a damaged bathroom door and that a bedroom door was already damaged at the beginning of the tenancy.
- **Exterior Door Locks.** The Landlords said the Tenants did not return all of the keys to the rental unit and as a result, they replaced the exterior door locks. The Tenants admitted that one of them lost a key in a friend's car and that it was not returned to him, however, they argued that the locks did not need to be replaced because this key was lost.
- **Light Switches and Light bulbs.** The Landlords said that most of the light bulbs in the rental unit were missing at the end of the tenancy and had to be replaced which the Tenants did not deny. The Landlords also claimed that some light switches throughout the rental unit were broken leaving only exposed switches. The Tenants admitted that they broke one switch in the kitchen and in one bathroom during the tenancy.
- **Other repairs.** The Landlords said they also had to replace towel bars and toilet paper holders in bathrooms that were either missing or damaged. The Landlords also claimed that they had to replace a thermostat that had been ripped off of the wall and damaged. The Landlords further claimed that it took both of them approximately 40 hours each to make all of the repairs and they sought to be compensated \$18.00 per hour for their labour. The Tenants did not respond to this part of the Landlords' claim.

The Landlords said there were other repairs that needed however they did not make a claim for them in this matter because they were under the mistaken belief that they could not do so until they had actually incurred expenses for the repairs.

Analysis

Section 7 of the Act says that "if a landlord or tenant does not comply with the Act, the regulations or the tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results."

I find that there is no basis under the Act to award the Landlords compensation for their claim for gas and meal expenses to travel to the rental unit to make repairs. The Landlords would not have had these expenses but for the fact that they reside in a different province than where the rental unit is located. Furthermore, I find that the Landlords would have had meal expenses whether or not the Tenants were in breach of the Act or tenancy agreement. However, the Tenants agreed at the hearing to compensate the Landlords for some of their gas expenses and therefore I award them one-half of the amount they have claimed for gas or **\$132.25**.

Section 32 of the Act says 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 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." Consequently, as the Landlords have the burden of proof in this matter, they must show (on a balance of probabilities) that the Tenants were responsible for the damages alleged and that they were not the result of reasonable wear and tear. This means that if the Landlords' evidence is contradicted by the Tenants, the Landlords will generally need to provide additional, corroborating evidence to satisfy the burden of proof.

Sections 23 and 35 of the Act say that a landlord must complete a condition inspection report at the beginning of a tenancy and at the end of a tenancy. A condition inspection report is intended to serve as some objective evidence of whether the tenant is responsible for damages to the rental unit during the tenancy or if he has left a rental unit unclean at the end of the tenancy. In the absence of a condition inspection report, other evidence may be adduced but is not likely to carry the same evidentiary weight especially if it is disputed.

In this matter, the Landlords did not complete a move in or a move out condition inspection report. Consequently, the only evidence of the condition of the rental unit at the beginning of the tenancy is that of the Landlords that the rental unit had little wear due to its age and was in good condition based on what they were told by a third party. Similarly, the only evidence of the condition of the rental unit at the end of the tenancy is the oral evidence of the Landlords as to what they observed approximately 3 weeks after the tenancy ended and 8 photographs taken by a third party.

- **Cleaning expenses.** The Tenants admitted that the carpets were not cleaned properly at the end of the tenancy and therefore, I find that the Landlords are entitled to recover their carpet cleaning expenses of **\$257.60**.

The Landlords claimed that the Tenants left the rental unit dirty at the end of the tenancy. The Tenants claimed that they thoroughly cleaned the rental unit at the end of the tenancy and that while it was not "a great job, it was alright." I note with respect to this part of the Landlords' claim that they did not view the rental unit at the end of the tenancy before it was cleaned and they provided no photographs of any cleanliness issues. Given the contradictory evidence of the

parties on this issue and in the absence of *any* corroborating evidence from the Landlords, I find that there is insufficient evidence to support the Landlords' claim for general cleaning expenses and it is dismissed without leave to reapply. .

- **Repairs to ducting altered by the Tenants.** The Parties agree that some ducting was altered by the Tenants during the tenancy. The Landlords claim this was done intentionally, however, the Tenants claim the duct simply fell off and they tried their best to repair it. I find it unlikely that the ducting simply fell off as the Tenants claimed and instead I find that the Tenants intentionally altered it so that it would vent in a different manner. Consequently, I find that the Landlords are entitled to recover their repair expenses of **\$38.19** representing supplies of \$11.19 and labour of 1.5 hours at a rate of \$18.00 per hour.
- **Repairs to a stand up pantry.** The Landlords claim that the Tenants knocked over a pantry and damaged it. The Tenants denied this and claimed that they only moved it. Given the contradictory evidence of the Parties on this issue and in the absence of any corroborating evidence from the Landlords (such as a photograph), I find that there is insufficient evidence to make out this part of the Landlords' claim and it is dismissed without leave to reapply.
- **Kitchen closet door.** The Tenants admitted that they damaged a kitchen closet door when one of them punched a hole in it. Consequently, I find that this damage was not the result of reasonable wear and tear and that the Landlords are entitled to recover their repair expenses of **\$102.07** representing \$66.07 for supplies and 2 hours of labour or \$36.00.
- **Kitchen counter top.** The Tenants admitted that they damaged the countertop when they spilled a chemical cleaner on it that left large stains. I find that this damage was caused by neglect rather than reasonable wear and tear. However, the Landlords did not provide an estimate for the cost to replace this item. Consequently, I award the Landlords damages for the reduced value of the existing countertop which I assess at **\$150.00**.
- **Kitchen linoleum flooring.** The Tenants admitted that they damaged a section of the kitchen flooring when they pulled out a stove. I find that this damage is not the result of reasonable wear and tear and as a result, I award the Landlords **\$36.00** representing 2 hours of their time to re-apply the damaged sections.
- **Damage to dishwasher.** The Landlords claim that the Tenants damaged a 4 year old dishwasher door so that it had to be replaced. The Tenants claim that this damage was reasonable wear and tear. RTB Policy Guideline #37 at Table 1 says the useful lifetime of a dishwasher is 10 years. I draw an adverse inference from the fact that the Tenants did not report the damaged dishwasher to the Landlords during the tenancy and in particular, I find that they did not report the damage because they wanted to conceal it from the Landlords.

Consequently, I find that the damage to the dishwasher was the result of the Tenants' neglect. However the Landlords are not entitled to be compensated for the cost of a new dishwasher to replace one that was 5 years old at the end of the tenancy. Consequently, I award the Landlords 50% of the cost of the dishwasher or \$120.23 plus \$19.04 for an installation kit and 2 hours labour for a total of **\$175.27**.

- **Wall repairs.** The Landlords said that most of the walls in the rental unit had numerous gouges and large holes, some of which the Tenants had tried unsuccessfully to repair, however the Landlords provided no photographic or other evidence of this alleged damage and the Tenants denied causing the damages (other than a hole in the living room which they claim they repaired). Given the contradictory evidence of the Parties and in the absence of any corroborating evidence from the Landlords, I find that there is insufficient evidence to conclude that the damages alleged were due to an act or neglect of the Tenants as opposed to reasonable wear and tear (such as in the hallway) and as a result, this part of the Landlords' claim is dismissed without leave to reapply.
- **Damaged Interior doors.** The Landlords said that the Tenants damaged two interior doors. The Landlords admitted that a master bedroom door had some pre-existing damage but claimed that the Tenants caused additional damage to it which the Tenants denied. The Landlords provided a photograph of a bathroom door (adjacent to the kitchen) that appears to have been kicked in. I find that there is insufficient evidence to conclude that the Tenants damaged a master bedroom door. However, I find on a balance of probabilities that the Tenants were responsible for damaging the bathroom door and as a result, I award the Landlords their repair expenses of **\$137.35** representing supplies of \$101.35 and 2 hours of labour.
- **Exterior Door Locks.** The Tenants admitted that they did not return all of the keys to the rental unit at the end of the tenancy. Section 37 of the Act says that a Tenant must return *all* keys that are in their possession or control at the end of the tenancy. Although the Tenants claimed that the missing key was lost, their evidence was that the key was lost in the vehicle of a friend and never returned. In the circumstances, I find that the key was still in the Tenants' control in that they could have taken steps to retrieve it but did not do so. Consequently, I find that the Landlords are entitled to their expenses to replace the locks of **\$77.01** representing supplies of \$59.01 and one hour of labour.
- **Light Switches and Light bulbs.** The Tenants admitted that they did not replace light bulbs at the end of the tenancy and that some light switch plates were damaged during the tenancy. Consequently, I award the Landlords \$64.16 for supplies and 2 hours of labour for a total of **\$100.16**.

- **Other repairs.** The Landlords claimed they incurred expenses for other items such as towel bars, toilet paper holders and a thermostat that were either missing or damaged. However the Landlords provided no evidence of these matters. Consequently, I find that there is insufficient evidence to support this part of the Landlords' claim and it is dismissed without leave to reapply.

In summary, I find that the Landlords have made out a monetary claim for \$1,205.90. I also find that the Landlord are entitled pursuant to s. 72(1) of the Act to recover from the Tenants the \$50.00 filing fee they paid for this proceeding. I Order the Landlords pursuant to s. 38(4) of the Act to keep the Tenants' security deposit of \$450.00 in partial payment of the monetary award. The Landlords will receive a Monetary Order for the balance owing of \$805.90.

Conclusion

A Monetary Order in the amount of **\$805.90** has been issued to the Landlords 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: February 13, 2012.

Residential Tenancy Branch