



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested compensation for damage to the rental unit; damage or loss under the Act; to retain all or part of the security deposit and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

Issue(s) to be Decided

Is the landlord entitled to compensation for damage to the rental unit in the sum of \$1,083.15?

Is the landlord entitled to compensation for loss of rent revenue in the sum of \$1,500.00?

Is the landlord entitled to filing fee costs?

Background and Evidence

This fixed-term tenancy commenced on May 1, 2011; rent was \$1,500.00 due on the first day of each month. A deposit was paid in the sum of \$750.00. A copy of the tenancy agreement and inspection report was submitted as evidence.

The unit was built in 2010; the landlord purchased the unit in 2011. A move-in condition inspection report was completed; the inspection report indicated that there were no deficiencies.

The parties mutually agreed to end the tenancy on November 30, 2011.

The landlord made the following claim:

Dura products, door repair, remove safe	952.00
Cleaning supplies	8.49
Screws	2.63
Paint supplies	56.25
Cleaning supplied	2.63
Paint supplies	1.89
Loss of rent revenue – 1 st 2 weeks December, 2011	750.00
Loss of rent revenue – last 2 weeks December, 2011	750.00
TOTAL	2,583.15

Receipts were provided for costs with the exception of the \$2.63 for cleaning supplies.

A copy of a November 28, 2011, email to the landlord from the tenant was supplied as evidence. This email acknowledged that a male had committed suicide, by jumping from the rental unit balcony. As a result the police entered by breaking the door to the unit, causing damage to the door jamb and door.

The landlord stated that the male had been subletting from the tenant; the tenant's agent stated that the male had lived the tenant; that she had not sublet.

The landlord and tenant had some contact via text message, and there was some discussion of an inspection; but no agreement was reached. One text to the tenant suggested Tuesday at 7 or 8; the tenant responded informing the landlord of the incident that had occurred at the unit.

On November 29, 2011, the landlord sent the tenant a message asking she finish moving out on the 30th and that the keys be left with the concierge at the building; the landlord obtained the keys on the 30th.

A December 16, 2011, invoice supplied by the landlord indicated "re and re door, remove safe." Email evidence indicated that the landlord required a door that matched others in the building and that the one obtained had to be lined up with the holes of the old door and installed. A small safe installed in a cupboard, had to be removed and the laundry room door was replaced.

The tenant stated they obtained a price of the laundry room door from a popular hardware store, in the sum of \$74.99; this did not include tax or installation costs.

The tenant did not dispute the need for carpet cleaning, repair to the laundry room door and other cleaning. The tenant offered the landlord \$750.00, as compensation; the landlord declined to settle the matter.

The landlord completed some minor wall repair and painting to repair scratches on the living room walls. The landlord claimed the costs of screws that were missing from electrical plates; these were intact at the start of the tenancy. The tenant did not dispute this portion of the claim.

The landlord stated that he lost rent revenue as a result of the repairs and cleaning that were required. An email sent to the new occupant asked if she could delay move-in by 2 weeks; she was also offered the last 2 weeks of rent as compensation for the delayed move-in. The new occupant responded, accepting the delayed move-in and rent reduction. The landlord was not sure if the new occupant would agree to delay her move-in and he made this offer in an attempt to ensure she would agree to move-in.

The landlord supplied photographs of the carpets, a cupboard that needed cleaning and that had a safe in it, the damaged door jamb; damaged laundry room door and broken door jamb at the entry.

The tenant did not understand that the police had damaged the entry door and did not feel this repair was the responsibility of the tenant.

During the hearing the landlord withdrew his request for loss of rent revenue for the last 2 weeks of December.

Analysis

When making a claim for damages under a tenancy agreement or the Act, the party making the allegations has the burden of proving their claim. Proving a claim in damages requires that it be established that the damage or loss occurred, that the damage or loss was a result of a breach of the tenancy agreement or Act, verification of the actual loss or damage claimed and proof that the party took all reasonable measures to mitigate their loss.

From the evidence supplied it is clear there was damage caused to the entry door as a result of the police entry to the unit in what they viewed was an emergency situation. The unfortunate event that led to the entry was the result of the decision made by the tenant's roommate. While the tenant is certainly not responsible for her roommate's decision, it was as a result of the actions of the tenant's guest that the door was damaged. Therefore, I find that the landlord is entitled to compensation for the damage to the door.

The tenant's agent acknowledged the damage to the laundry room door and did not dispute the amount claimed for the safe removal. Therefore, I find, based on verification

of the expenditure supplied by the landlord, that he is entitled to compensation in the amount claimed, for the 2 doors and safe removal.

The tenant acknowledged the need for cleaning and carpet cleaning and, I find, based on this acknowledgement, the condition inspection report completed at move-in and the receipts provided as verification, that the landlord is entitled to amounts claimed for cleaning and carpet cleaning. A tenant is required to leave the unit reasonably clean at the end of a tenancy.

The tenant did not dispute the claim for painting costs and screws; I find that the landlord is entitled to these costs.

I have dismissed the claim for cleaning supplies that were not verified by a receipt.

Section 7 of the Act provides:

Liability for not complying with this Act or a tenancy agreement

- 7** (1) *If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.*
- (2) *A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.*

The landlord and new occupant reached agreement that she would take possession in mid-December and would not have to pay any rent for the balance of December, 2011. The landlord has asked that the tenant reimburse him for the loss of rent revenue for the first 2 weeks of December, 2011, as the unit needed so much cleaning and the door required repair before the occupant could move into the unit.

I have considered the claim for loss of rent revenue and, on the balance of probabilities, find that there was no evidence before me that the unit was so unclean that the landlord required 2 weeks delay to allow an occupant to move in. I do find that the door repair did result in a delay; however, there was no evidence before me as to why the landlord did not have this door installed within several days. The landlord did not provide any evidence supporting a delay, or any indication that he was attempting to mitigate the loss he now claims for rent revenue. He had possession of the unit on November 30, 2011, which allowed him to take quick action to fix the door.

In the absence of evidence that the landlord mitigated the loss he is claiming for rent revenue, I find he is entitled to a nominal amount equivalent to 4 days rent revenue in the sum of \$197.26, in recognition of the door repair that was required. I find that 4

days should have been an adequate period of time to complete the relatively small amount of cleaning and to have the door installed.

	Claimed	Accepted
Carpet cleaning	59.26	59.26
Cleaning supplies	8.49	8.49
Screws	2.63	2.63
Paint supplies	56.25	56.25
Cleaning supplied	2.63	0
Paint supplies	1.89	1.89
Loss of rent revenue – 1 st 2 weeks December, 2011	750.00	197.26
TOTAL	2,583.15	1277.78

I find that the landlord's application has merit and that the landlord is entitled to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

I find that the landlord is entitled to retain the tenant's security deposit in the amount of \$750.00 in partial satisfaction of the monetary claim.

Conclusion

I find that the landlord has established a monetary claim, in the amount of \$1,327.78, which is comprised of damage and damage or loss and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

The landlord will be retaining the tenant's security deposit in the amount of \$750.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the landlord a monetary Order for the balance of \$577.78. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province 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: March 14, 2012.

Residential Tenancy Branch