



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 hearing was convened on the landlord's application of February 8, 2012 for a monetary award for unpaid rent, cleaning and repair of the rental unit, recovery of the filing fee for this proceeding and authorization to retain the tenants' security and pet damager deposits in set off against the balance found to be owed.

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 and pet damage deposit in set off against any balance found to be owed. Claims in damages take into account move-in/move out condition inspection reports, whether damages are proven, attributable to the tenants and proven and reasonable as to amounts claimed, depreciation and normal wear and tear.

Background, Evidence and Analysis

This tenancy officially began on July 1, 2011, although the tenants were permitted to move in on June 16, 2011 without charge for the balance of the month. Rent was \$850 per month and the landlord holds security and pet damage deposits of \$400 and \$200 respectively, both paid at or near the beginning of the tenancy.

In addition, the landlord holds a further \$745 which is credited to the tenants' account, the residue left after the landlord first paid a \$25 fee when the tenants' February rent cheque was returned NSF, and a further \$30 certified cheque fee when she succeeded on a subsequent attempt to cash the cheque.

During the hearing, the landlord submitted claims for unpaid rent/loss of rent, damage to the rental unit supported by receipts and photographic evidence, recovery of the filing fee for this proceeding and authorization to retain the security and pet damage deposits in set off. On the landlord's claims, I find as follows:

Unpaid rent for February 2012 - \$322.41. The landlord claims unpaid rent on the grounds that the tenants vacated the rental unit on January 24, 2012 without giving one-month's written notice as required under section 45 of the Act. The amount claimed for unpaid rent is based on 11 days of 29-day per diem as the landlord was fortunate in finding a new tenant to move into the rental unit on February 12, 2012. The tenants submitted that they were justified in leaving the rental unit as the water line had been frozen, an argument the landlord challenged on the grounds that the water problem was temporary due to a frozen water line, she had sent the plumber at the soonest possible time, she had sent water containers to the tenants, and she had offered the tenants temporary shelter in a local motel as well as accommodation for their pets. This claim is allowed in full.

Change locks - \$60.22. The landlord gave evidence that she had the locks changed on January 24, 2012 as the tenants had returned only one key. The male tenant returned to the rental unit that day to find that his old key no longer worked. I find that the landlord was premature in changing the locks. This claim is dismissed.

General cleaning - \$160. The landlord claims eight hours at \$20 per hour for her own work in the cleaning the rental unit. The tenants claim to have cleaned the rental unit thoroughly, but I find the claim justified on the basis of photographic evidence and the failure of the tenants to participate in a move-out condition inspection. The claim is allowed in full.

Carpet Shampoo - \$56. This claim is supported by receipts and it is allowed.

Carpet replacement - \$144.48. The landlord gave evidence that while she had permitted the tenants to have one dog, a boxer, and a cat, they had added another puppy without consent of the landlord. The landlord stated that the odour pet urine in the subject carpet was so strong, that attempts to clean it, both in the previous claim and the tenants' efforts, could not remove the odours. The landlord submitted a receipt on this claim and gave evidence that the carpet was two years old. As standard depreciation table place the useful life of standard carpet at 10 years, I will allow 80 per cent of this cost and award \$115.58.

General repairs - \$345. The landlord stated that the rental unit had been left in a state that required various general repairs including the front door damaged by the tenants' dogs, removal of the damaged carpet, sealant painting the floors, repair of shingles, the shed floor and time for taking materials to the dump. While the tenants disagreed with the totality of the claim, I find on the basis of photographic evidence that the claim is sound and it is allowed in full.

Dump fees - \$20.83. This claim is supported by a receipt and it is allowed.

Yard repair - \$441.00. The landlord has submitted a written estimate for grooming areas of the one-acre property, two yards of top soil and grass seed for repair of yard damage caused by vehicles and by the tenants' pets. While the tenants had no recollection of driving vehicles on the grassed areas, photographic evidence clearly shows a large area adjacent to a hedge at the rear of the property with deep and broad vehicle damage to the grassed area. The photograph contrasts dramatically with one taken prior to the tenancy showing a well groomed lawn in the same area. I accept the evidence of the landlord that she will have the lawns rehabilitated as soon as the ground is sufficiently dry and allow this claim in full.

Photographs and mailing costs - \$18.70 and \$20.83. These claims are dismissed as the legislation does not provide for reimbursement for costs of gather evidence and service of documents.

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 tenants.

Security and pet damage deposits – (\$600). As authorized under section 72 of the Act, I find that the landlord may retain the security and pet damage deposits in set off against the balance owed.

Residue of February 2012 rent – (\$745). As previously noted, after the NSF and certified cheque fees, the landlord holds \$745 from the rent paid for February and this amount is set off against the award to the landlord.

Thus, I find that the tenants owe to the landlord an amount calculated as follows:

Tenants' Credits		
Retained security deposit (No interest due)	400.00	
Retained pet damage deposit (No interest due)	<u>200.00</u>	
Sub total	\$1,345.00	\$1,345.00
Award to Landlord		
Unpaid rent for February 2012	\$ 322.41	
General cleaning	160.00	
Carpet Shampoo	56.00	
Carpet replacement	115.58	
General repairs	345.00	
Dump fees	20.83	
Filing fee	<u>50.00</u>	
Sub total	\$1,069.82	- <u>1,069.82</u>
TOTAL remaining to be returned by landlord to tenants		\$ 275.18

Conclusion

After set off of the award to the landlord for \$1,069.82 against the remainder of the rent paid for February and 2011 and the security and pet damage deposits totalling \$1,345.00, I find the landlord holds a surplus on account of \$275.18. Therefore, the tenants' copy of this decision is accompanied by a Monetary Order for **\$275.18**, enforceable through the Provincial Court of British Columbia, for service on the landlord.

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: April 12, 2012.

Residential Tenancy Branch