



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Landlord: MNR, MND, MNDC, MNSD and FF
Tenant: MNSD and FF

Introduction

This hearing was convened on applications by both the landlord and the tenant.

By application dated April 13, 2012, the landlord sought a monetary award for loss of rent, damage to the rental unit, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

By application of April 16, 2012, the tenants sought return of their security deposit and recovery of the filing fee for this proceeding.

Issue(s) to be Decided

The landlord's application requires a decision on whether the landlord is entitled to a monetary award for the claims he submitted, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off.

The tenants' application requires a decision on whether the tenants are entitled to return of all or part of the security deposit if it has not been awarded on the landlord's application.

Background, Evidence and Analysis

This tenancy began on May 1, 2011 and end on March 31, 2012 pursuant to a Mutual Agreement to End Tenancy signed by both parties.

Rent was \$1,300 per month and the landlord holds a security deposit of \$650.

During the hearing, the landlord submitted claims for one month's loss of rent, general cleaning a minor damage, support by receipts or details of his own labour in remediating the rental property.

As a matter of note, on some of the claims in contention, I have found the landlord's evidence to be the more credible given that the tenants had declined to participate in completing the move-out condition inspection report and the claims in general appear to have been moderate and fair.

The landlord claims and I find as follows:

Loss of Rent for April 2012 - \$1,300. Taking into account that:

- this tenancy ended on a Mutual Agreement to End Tenancy,
- the claimed damages were either not urgent or requiring a lengthy time to address, and.
- the fact that the landlord submitted no evidence of attempts to find new tenants, meaning he has not met the burden of to prove reasonable efforts to minimize this loss as required under section 7 of the *Act*,

I must decline to make an award on this claim.

Replace missing garage door lock - \$21.99. While the tenant stated he had no knowledge of the door lock, I find the landlord's recollection of having given him a key and his detailed condition inspection report at the conclusion of the previous tenancy to be persuasive. This claim, supported by receipt, is allowed in full.

Roto-Rooter - \$95.20. This claim arises from work done in September 2011, the fifth month of the tenancy. The landlord gave evidence that he had had the drains cleaned before or early in the tenancy. The receipt shows that the cause of the blockage in question turned out to be a popcycle stick in the sink trap. While the tenant, a plumber by profession, stated that his two and four year old children were not permitted popcycles because of the sugar content, and in his experience, such a minor item may well have been in the trap from previous tenants, I find on the balance of probabilities that the blockage occurred during the tenancy and the tenants are responsible for this receipted claim. It is allowed in full.

Grass seed – \$9.97. The landlord makes this claim for the cost of seed but not labour for repairing a portion of the lawn damaged by vehicle tire ruts. I prefer the evidence of the landlord and this claim is allowed in full.

Replace burned out light bulbs - \$6. While the tenant claimed there were no more burned out bulbs at the end of the tenancy than at the beginning, I find that he should have addressed that issue with the landlord at the beginning of the tenancy. This claim is allowed in full.

Drano for bathtub - \$9.99. Again, this claim was contested but I find the evidence of the landlord to be the more credible. The claim is allowed.

Removal of lawn clippings and xmas tree – \$10.00. An addendum to the rental agreement requires the tenant to remove grass clippings. The landlord stated that, at the end of the tenancy, he had to remove a large pile from behind the garage. The tenant stated the xmas tree was not his and some of the clippings had been there at the beginning of the tenancy. If that be so, I find that the size of this claim is so reasonable, that the tenant would still be responsible for this small amount to remove the clippings that were his. The claim is allowed.

General cleaning - \$259. While the tenant stated that his wife had spent considerable time cleaning the rental unit, I find that the lack of a move-out condition inspection report, the itemized receipt for nine hours cleaning and the landlord's description combine to justify this claim. It is allowed in full.

Filing fee - \$50. Having found substantial merit in the landlord's application, I find that he is entitled to recover his filing fee for this proceeding from the tenants.

Security deposit - (\$650). As the landlord lawfully made application to claim on the deposit within 15 days of the end of the tenancy as required under section 38 of the *Act*, I hereby order, under section 72 of the *Act* that the landlord may retain the amount awarded herein from the security deposit but must return the balance to the tenants.

As the tenant's application sought only return of the deposit which has been awarded to the landlord, the tenant's application is dismissed without leave to reapply.

Thus, I find that accounts balance as follows:

Tenants' Credit		
------------------------	--	--

Award to Landlord		
Replace missing garage door lock	\$ 21.99	
Roto-Rooter	95.20	
Grass seed	9.97	
Replace burned out light bulbs	6.00	
Drano for bathtub	9.99	
Removal of lawn clippings and xmas tree	10.00	
General cleaning	259.00	
Filing fee	<u>50.00</u>	
Sub total (award to landlord)	\$462.15	- 462.15
TOTAL remainder of deposit to be returned to tenants		\$187.85

Conclusion

The landlord is authorized to retain \$462.15 from the tenants' security deposit and must return \$187.85 for which purpose the tenants' copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia, for service on the landlord if necessary.

The tenant's claim for return of the security deposit is dismissed without leave to reapply.

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: June 07, 2012.

Residential Tenancy Branch