



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order permitting him to retain the security deposit. Both parties participated in the conference call hearing.

Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

Background, Evidence and Analysis

The parties agreed that the tenancy began on June 28, 2011 and ended on April 30, 2012. A condition inspection report as contemplated by the Residential Tenancy Regulation was not completed at the beginning of the tenancy. The tenant claimed that the parties inspected the unit and filled out a condition inspection report at the end of the tenancy while the landlord denied that the inspection occurred and that a report was generated.

The parties agreed that rent was set at \$800.00 per month and that at the outset of the tenancy, the tenant paid a \$400.00 security deposit and a \$400.00 pet deposit.

I address the landlord's claims and my findings around each as follows.

- 1. Cleaning.** The landlord seeks to recover \$250.00 which represents 10 hours of his labour at a rate of \$25.00 per hour to clean the rental unit. The landlord claimed that he and his staff had to clean the rental unit as it had not been cleaned. The tenant testified that she cleaned the unit. The parties each provided photographs showing the condition of the unit. The tenant is responsible to leave the unit reasonably clean at the end of the tenancy. The photographs of both the landlord and tenant show that the interior of the unit was reasonably clean, except perhaps for the photograph of the toilet submitted by the landlord. However, even if the tenant did leave the toilet in that condition, I find it unlikely that it would have taken the landlord more

than 5 minutes to clean it. The landlord's photographs of the deck, however, show that it required additional cleaning. While the landlord and his staff may have spent 10 hours cleaning, I find that the purpose would have been to leave the unit spotless, which is a standard far higher than what is required under the Act. I find that an award of \$50.00, which represents 2 hours of cleaning for the deck, will adequately compensate the landlord and I award him that sum.

- 2. Carpet cleaning.** The landlord seeks to recover \$150.00 as the cost of cleaning carpets. The landlord testified that carpets in the 2 bedrooms were dirty and covered with cat hair. His witness, W.C., testified that there was so much cat hair, it clogged his carpet cleaner. The landlord testified that he typically charges \$75.00 per room to clean carpets. The tenant testified that she cleaned the carpets and that she has her own steam cleaner. She provided a witness letter in which a party who was in the rental unit at the end of the tenancy noted that the carpets were still damp. I accept that the tenant may have cleaned the carpets at the end of the tenancy, but I find it more likely than not that the carpets required additional cleaning because of the cat hair from the tenant's 2 cats. However, I find the landlord's claim for \$75.00 per room to be exorbitant as this is significantly more than what a professional carpet cleaning service would charge. I find that an award of \$50.00 will adequately compensate the landlord and I award him that sum.
- 3. Painting.** The landlord seeks to recover \$100.00 as the cost of repainting cupboard fronts. The landlord testified that the tenant had filled and painted over holes in the cupboard fronts and that because the paint didn't match, he had to repaint the cupboards. The tenant denied having put holes in the cupboard and denied having put putty in holes or painting over them. The tenant entered into evidence photographs of the unit while she lived therein. I find it highly unlikely that the tenant would have put holes in the cupboard fronts and find it more likely than not that the damage alleged by the landlord pre-existed the tenancy. I therefore dismiss this part of the claim.
- 4. Stove damage.** The landlord seeks to recover \$100.00 for the reduced value of the stove which he claims was damaged by the tenant. The landlord provided a photograph showing 2 chips in the stovetop and another photograph which he claimed was taken at the beginning of the tenancy. The tenant questioned whether the chipped stove shown in the photographs was the one from her unit, as she was certain there were no chips in the stove at the end of the tenancy. I find it more likely than not that the stove in the photographs is the stove from the rental unit and I find that the chips occurred during the tenancy. The landlord gave no evidence as to the age of the stove and as it appears to be older and as the chips would not affect

the operation and use of the stove, I find that any award must be minimal to reflect only cosmetic damage. I award the landlord \$10.00.

- 5. Wall repair.** The landlord seeks to recover \$150.00 for 5 hours of his labour at a rate of \$25.00 per hour to repair holes in the wall and repaint areas where the wall had been repaired. The landlord provided photographs showing the walls of the unit and areas where the wall had been puttied. He claimed that there were numerous large holes left which were not properly reinforced or repainted. The landlord testified that the tenant had placed drywall anchors in the wall to mount her television and in the bathroom to install a new towel bar, which was a different length than the one she removed. The tenant acknowledged having installed anchors in the walls to hold an electric fireplace and having installed new towel bars, but testified that she removed the anchors, used drywall tape and putty to fill the holes and used proper drywall sanding paper to finish the areas. She provided letters from parties who saw the rental unit at the end of the tenancy, both of whom claimed that they saw the area where the tenant had patched the holes. I find it more likely than not that the landlord's photographs accurately represent the condition of the walls. I accept that the tenant attempted to fill the holes to repair the damage, but I find that she did not meet a reasonable standard of repair. I find the landlord's claim of \$150.00 to be reasonable and I award him that sum.
- 6. Heater reinstallation.** The landlord seeks to recover \$12.50 as the cost of half an hour of his labour at a rate of \$25.00 per hour to reinstall an electric heater. The parties agreed that during the tenancy, the tenant relocated an electric baseboard heater in her bedroom in order to accommodate her furniture. They further agreed that she did not move it back to its original position at the end of the tenancy. The landlord testified that the heater needed to be relocated because it was mounted over the top of the trim, which posed a fire hazard. I find that the tenant had the obligation to move the heater back to its original location and that the landlord is entitled to recover the value of the labour expended to perform this task. I award the landlord \$12.50.
- 7. Fixture and towel bar replacement.** The landlord seeks to recover \$87.50 for 3 hours of his labour at a rate of \$25.00 per hour to purchase and install a light fixture and towel bars. The parties agreed that the tenant removed the fixture and towel bars during her tenancy and that the landlord removed them from the premises. The landlord testified that he did not reinstall the old fixture and bars because they were not worth reinstalling. I find that because the landlord acknowledged that the items had little or no value and because he removed them from the premises thereby

preventing the tenant from reinstalling them, he must bear the cost of the replacement. Accordingly, I dismiss this part of the claim.

8. Unpaid rent and loss of income. The landlord seeks to recover \$400.00 in unpaid rent for April and \$1,600.00 in lost revenue. The parties agreed that the tenant had asked that her \$400.00 pet deposit be applied to her last month's rent in April and that she paid just \$400.00 of the \$800.00 owing for April. The parties further agreed that the tenancy was set to run for a fixed term of one year and that the tenant ended the tenancy 2 months prior to the end of the fixed term. The landlord testified that he ran advertisements in a local newspaper three times each week and that the company has a website on which they provide a name and telephone number for contact. The tenant testified that she did not see newspaper advertisements and stated that the internet site does not specifically state that apartments are available for rent. Section 21 of the Act prohibits a tenant from applying a pet deposit to rent without written permission from the landlord. I find that the landlord is entitled to an award of \$400.00 for unpaid rent for April. I find that the tenant breached the fixed term tenancy agreement. I accept the landlord's verbal testimony that he advertised the rental unit and I find that the landlord acted reasonably to mitigate his losses. Although the tenant claimed that she did not see newspaper ads, I find it unlikely that she would subscribe to a Prince Rupert newspaper after she moved to Vancouver. I find that it is not necessary for the landlord to list individual apartments as being available on the website in order to attract prospective tenants. I award the landlord \$1,600.00 in lost income for a total award of \$2,000.00.

9. Filing fee. The landlord seeks to recover the \$50.00 filing fee paid to bring his application. As the landlord has been substantially successful in his claim, I find that he is entitled to recover this sum and I award him \$50.00.

Conclusion

In summary, the landlord has been successful in the following claims:

Cleaning	\$ 50.00
Stove damage	\$ 10.00
Wall repair	\$ 150.00
Heater reinstallation	\$ 12.50
Unpaid rent and loss of income	\$2,000.00
Filing fee	\$ 50.00
Total:	\$2,322.50

The landlord has been awarded \$2,322.50. I order the landlord to retain the \$800.00 in security and pet deposits in partial satisfaction of the claim and I grant him a monetary order under section 67 for the balance of \$1,522.50. This order may be filed in the Small Claims Division of the Provincial 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: July 06, 2012

Residential Tenancy Branch