



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, MNR, 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 unit, unpaid rent, 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.

The agent for the landlord provided affirmed testimony that the application was submitted on August 14, 2012. Service of Notice of the hearing and evidence was not initiated until October 12, 2012, as the landlord was attempting to reach agreement with the tenant on costs he had agreed to at the end of the tenancy.

The hearing package was sent via registered mail to the written forwarding address provided by the tenant at the end of the tenancy, June 1, 2012. The mail was not returned to the landlord. A Canada Post tracking number and receipt was provided as evidence of service.

These documents are deemed to have been served in accordance with section 89 of the Act, on the 5th day after mailing; however the tenant did not appear at the hearing.

Issue(s) to be Decided

Is the landlord entitled to compensation in the sum of \$1,518.90 for damage to the rental unit and unpaid rent?

May the landlord retain the deposit?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenant moved from one unit to another on November 1, 2011. Rent in the new unit was \$1,325.00 per month. The previous security deposit was returned and the tenant paid a new deposit in the sum of \$662.50. A move-On condition inspection report was completed.

The tenant gave proper notice to end the tenancy and on June 1, 2012 he met with the landlord to complete a move-out condition inspection report. T

A copy of the move-out condition inspection report submitted as evidence indicated that the tenant had signed the report which recorded the state of the unit as a "big dirty mess."

The landlord supplied a copy of an agreement signed by the tenant on June 1, 2012, agreeing to deductions from the deposit for the following charges:

- 201.40 carpet cleaning;
- 150.00 drape and blind cleaning;
- 500.00 painting;
- 200.00 or 300.00 garbage removal; and
- 250.00 or 350.00 general suite cleaning.

This agreement indicated that any remaining security deposit would be refunded to the tenant.

On June 11, 2012 the landlord wrote the tenant asking for the balance owed in the sum of \$856.40. When the tenant did not pay the balance they had agreed was owed at the end of the tenancy, the landlord applied for an Order in support of the agreement.

The landlord is claiming the following compensation:

Rent arrears	17.50
Drape/blind cleaning	150.00
Painting/wall repair	500.00
Garbage removal	300.00
Suite cleaning	350.00
TOTAL	1,518.90

Several of the amounts listed on the agreement appeared to be unclear and could have been read as 300.00 vs. 200.00 and 250.00 vs. 350.00. The total amount agreed to was not indicated separately.

Invoices for work completed were supplied as evidence as follows:

- 212.80 for curtain cleaning and general cleaning as one charge;
- 84.00 carpet cleaning;
- 2,598.00 painting; and
- 425.00 garbage removal.

The landlord stated the tenant was a heavy smoker and that the unit required painting as a result of the smoke damage. The tenant was not prohibited from smoking in the rental unit.

A tenant ledger was supplied as evidence which showed arrears in the sum of \$17.50 dating back to May 2012; the ledger did not indicate what the \$17.50 represented.

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.

In the absence of the tenant who was served with Notice of this hearing I find that the landlord is entitled to the following compensation:

	Claimed	Accepted
Carpet cleaning	201.40	84.00
Drape/blind cleaning	150.00	150.00
Painting/wall repair	500.00	500.00
Garbage removal	300.00	300.00
Suite cleaning	350.00	62.80
TOTAL	1518.90	1,096.80

There was no evidence before me explaining the amount claimed for rent arrears. The tenant ledger supplied as evidence showed a balance owed May 1, 2012 in the sum of \$17.50, but I could not discern if this was parking, cleaning, late fees or rent owed. Therefore, this portion of the claim is dismissed.

I find that the landlord is entitled to the cost for cleaning and drape cleaning in the sum of \$212.80, the amount indicated on the single invoice supplied as evidence. In the absence of verification of costs incurred for the balance claimed I find that balance is dismissed.

I find that the landlord is entitled to the cost of painting in the sum of \$500.00. The tenant agreed to painting costs at the end of the tenancy, and had agreed this amount could be deducted from the deposit. Therefore, the landlord is entitled to the amount claimed for painting; \$500.00, which is supported by an invoice.

The agreement signed by the tenant included sums that were difficult to discern; it appears the tenant agreed to a deduction of either \$200.00 or \$300.00 for the cost of garbage removal. The invoice supplied as evidence indicated that on June 11, 2012,

garbage was removed from the unit, costing \$425.00. Therefore, I find the landlord is entitled to amount claimed for garbage removal in the sum of \$300.00.

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 \$662.50, in partial satisfaction of the monetary claim.

Conclusion

I find that the landlord has established a monetary claim, in the amount of \$1,146.80, which is comprised of damage to the rental unit and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

The balance of the claim is dismissed.

The landlord will be retaining the tenant's security deposit in the amount of \$662.50, in partial satisfaction of the monetary claim.

Based on these determinations I grant the landlord a monetary Order for the balance of \$484.30. 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 final and binding on the parties, unless otherwise provided under the Act, and 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: October 30, 2012.

Residential Tenancy Branch