



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MND, MNDC, MNSD, FF / MNDC, MNSD, FF

Introduction

This hearing concerns 2 applications: i) by the landlords for a monetary order as compensation for damage to the unit, site or property / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee; and ii) by the tenants for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / return of the security deposit / and recovery of the filing fee.

Both parties participated in the hearing and gave affirmed testimony.

Issue(s) to be Decided

Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement in evidence for this month-to-month tenancy which began on or about June 5, 2010. At the outset of tenancy, monthly rent of \$1,200.00 was due and payable in advance on the first day of each month. Approximately one year later the monthly rent was increased to \$1,250.00. A security deposit of \$600.00 was collected at the start of tenancy. There is no move-in condition inspection report in evidence.

After giving notice on May 15, 2012 the tenants vacated the unit on or about June 15, 2012, however, rent was paid in full to June 30, 2012. There is no move-out condition inspection report in evidence. The landlords claim that on July 11, 2012 they received a letter from the tenants in which the tenants provided their forwarding address and requested the return of their security deposit. The landlords' application for dispute resolution was filed on July 25, 2012.

New renters were found for the unit effective July 1, 2012.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

The attention of the parties is drawn to the following particular sections of the Act:

Section 23: **Condition inspection: start of tenancy or new pet**

Section 24: **Consequences for tenant and landlord if report requirements not met**

Section 35: **Condition inspection: end of tenancy**

Section 36: **Consequences for tenant and landlord if report requirements not met**

Section 38: **Return of security deposit and pet damage deposit**

Based on the documentary evidence and testimony, the various aspects of the respective claims and my findings are set out below.

LANDLORDS:

\$99.75 (\$57.75: *garbage removal* & \$42.00: *garbage removal*.) The initial removal was undertaken prior to the end of tenancy, whereas the balance of removal was completed following the end of tenancy. Included in evidence are receipts and photographs. On a balance of probabilities I find that the landlords have established entitlement to **\$78.75***, which is comprised of the full amount claimed of \$57.75 in addition to \$21.00, which is half the amount claimed of \$42.00 (\$57.75 + \$21.00).

\$3,000.00: *replacement of laminate flooring*. The landlord testified that no flooring replacement has been undertaken and that, accordingly, the figure provided is an estimate and no actual cost has been incurred. In consideration of the foregoing and in the absence of the comparative results of move-in and move-out condition inspection reports, this aspect of the application is hereby dismissed.

\$3,617.60: *repairs to deck*. The cost cited is the actual cost of work undertaken on the deck prior to the start of tenancy. For reasons virtually identical to those set out immediately above, this aspect of the application is hereby dismissed.

\$25.00: *fire extinguisher*. In the absence of a receipt in evidence, I find on a balance of probabilities that the landlords have established entitlement limited to **\$12.50***, which is half the amount claimed.

\$30.00: oven clean. Section 37 of the Act speaks to **Leaving the rental unit at the end of a tenancy**, and provides in part:

37(2) When a tenant vacates a rental unit, the tenant must

(a) leave the rental unit reasonably clean, and undamages except for reasonable wear and tear.

Further, Residential Tenancy Policy Guideline # 1 addresses “Landlord & Tenant – Responsibility for Residential Premises.”

In the absence of the comparative results of move-in and move-out condition inspection reports, I find on a balance of probabilities that the landlords have established entitlement limited to \$15.00*, which is half the amount claimed.

\$100.00: filing fee. As the landlords have achieved limited success with their application, I find that they have established entitlement limited to \$50.00*, which is half the amount claimed.

Total entitlement: \$156.25.

TENANTS:

\$75.00*: reimbursement for the cost of washing machine. Major appliances were provided in the unit when tenancy began. When the washing machine broke down, the tenants replaced it. Included in evidence is a receipt for purchase. I find that it is reasonable to conclude that appliances were included in the rent and that the tenants have therefore established entitlement to the full amount claimed.

\$50.00*: filing fee. As the tenants have mainly succeeded with their application, I find that they have established entitlement to recovery of the full filing fee.

Total entitlement: \$125.00.

I hereby order that the landlords withhold \$156.25 from the tenants’ security deposit of \$600.00, and repay the balance of \$443.75 (\$600.00 - \$156.25), in addition to the entitlement established by the tenants of \$125.00 (total: \$568.75), and I hereby issue a **monetary order** in favour of the tenants in the total amount of \$568.75 (\$443.75 + \$125.00).

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenants in the amount of **\$568.75**. Should it be necessary, this order may be served on the landlords, filed in the 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: October 16, 2012.

Residential Tenancy Branch