



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNDC, MNSD, FF and SS

Introduction

This hearing was convened on an application by the landlords on July 24, 2012 seeking a monetary award for unpaid rent/ 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. The landlords' request for an order for substitute service was withdrawn as they had located the tenants..

Issue(s) to be Decided

This matter requires a decision on whether the landlord is entitled to monetary award for the claims submitted and in what amounts.

Claims in damages require that several factors be taken into account: the comparison of move-in vs. move-out condition inspection reports, whether damages are proven and attributable to the tenants, normal wear and tear, depreciation, and whether amounts claimed are proven and reasonable. Damage or loss due to non-compliance with the legislation or rental agreement requires the claimant to take reasonable steps to minimize the loss claimed. The burden of proof falls to the applicant.

Background, Evidence and Analysis

This tenancy began on May 1, 2011 under a fixed term rental agreement set to end on April 30, 2012, with the written provision that at the conclusion of the fixed term, the tenancy would continue as a month to month or fixed term tenancy unless either party gave notice to end.

Rent was \$1,350 per month and the landlord holds a security deposit of \$675 at the beginning of the tenancy.

During the hearing, the attending landlord gave evidence that the tenants had given notice to end the tenancy by email on May 25, 2012 and vacated the rental unit on May 31, 2012. The parties completed the move-out condition inspection report on June 1, 2012 and the tenants declined to provide the landlord with a forwarding address

The landlord submitted a series of receipts, copies of email exchanges with the tenant and a copy of the condition inspection reports in support of their claims and on which I find as follows:

Unpaid rent/loss of rent - \$1,350. Section 45 of the *Act* provides that tenants' notice to end tenancy must be given at least one month in advance on a date before the rent due date to take effect at the end of the following rental period. In the present matter, in order to end the tenancy on May 31, 2012, notice would have to have been given on a date prior to April 30, 2012. As a result of the late notice and with time required to do some repairs and additional cleaning, the landlord was not able to begin a new tenancy until July 1, 2012. Therefore, I find that the tenants are responsible the rent for June 2012 and this claim is allowed in full.

Patching and partial painting - \$662.22. The landlord stated that immediately prior to this 13-month tenancy, the unit had been freshly painted at a cost of \$2,480. She stated that patching and partial painting beyond normal wear and tear was made necessary by the mounting of swing arm television mounts on the wall and a bedroom area with wall paper damage. The tenants stated that the landlord had consented to the installation of the swing arms, but the landlord said that she had not anticipated that large pieces of plywood would be attached to the wall resulting in the need for repainting. Standard depreciation tables place the useful life of interior paint at four years; therefore, I find the paint was depreciated by 13/48 or \$179.35 leaving \$482.87. I am further reducing the award on this claim to \$300 to take into account normal wear and tear.

Key change - \$126.34. The landlord stated that keys not returned included copies of a key to the mail room and the mail box. She stated that she had called the tenants requesting their return but, receiving no reply, she was required to have the locks changed. The tenants first stated that they had received only one set of keys, then the male tenant later said he had disposed of some keys as he didn't wish any further interaction with the landlords. The claim is allowed in full.

Carpet cleaning - \$306.94. The tenants concur with this claim and it is allowed in full.

Blinds repair - \$96.60. The parties concur that the tenants removed a set of blinds to facilitate installation of window mounted air conditioner. I accept the evidence of the landlord that when the blinds were to be reinstalled, one of the slats was bent and required replacement as did some missing parts. The claim is allowed in full.

Garbage can - \$21.27. I accept the evidence of the tenants that the broken handle on the garbage can may well have happened during emptying of it into a waste disposal truck. This claim is dismissed.

General cleaning - \$220. The landlord stated that she had spent a total of 27 hours cleaning the rental unit to a state ready for new tenants but seeks to recover only 11 hours at \$20 per hour from the tenants. The tenants stated that they had paid another party the same amount to clean. The landlord described black around the tub, grease in the cupboards and kitchen exhaust fan, and general need throughout the rental unit for additional cleaning. I find the landlords' claim to be reasonable and substantiated and it is allowed in full.

Filing fee - \$50. As the landlords' application has substantially succeeded on its merits, I find that they are entitled to recover the filing fee for this proceeding from the tenants.

Security deposit – (\$675). As authorized by section 72 of the *Act*, I order that the landlords retain the security deposit in set off against the balance owed to them by the tenants.

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

Unpaid rent/loss of rent	\$1,350.00
Key change	126.34
Carpet cleaning	306.94
Blinds repair.	96.60
General cleaning	220.00
Filing fee	<u>50.00</u>
Sub total	\$2,449.88
Less retained security deposit (No interest due)	<u>- 675.00</u>
TOTAL	\$1,774.88

Conclusion

In addition to authorization to retain the security deposit in set off, the landlords' copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for **\$1,774.88** for service on the tenants.

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 09, 2012.

Residential Tenancy Branch