



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD and FF

Introduction

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

By application of September 14, 2012, the landlord sought authorization to retain the cost of carpet cleaning and recovery from the tenant of the filing fee for this proceeding from the tenant's security deposit.

By application received October 17, 2012, the tenant sought return of her security deposit in double on the grounds that the landlord had not returned it or made application to claim against within 15 days of the end of the tenancy. The tenant also sought to recover her filing fee for this proceeding.

At the commencement of the hearing, the tenant's agent acknowledged that she had erred in claiming the landlord's application had not been made within 15 days of the end of the tenancy.

Therefore, as the landlord has complied with section 38(1) of the *Act* in making timely application, the tenant cannot claim for return of the deposit in double as provided under section 38(6) of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to retain the cost of carpet cleaning from the security deposit, or is the tenant entitled to return of the deposit in full?

Background and Evidence

The tenant lived in the residential complex from May 1, 2002, and had transferred to the subject suite on January 6, 2005. The tenancy ended on August 31, 2012 and the landlord holds a security deposit of \$280 paid at the beginning of the first tenancy.

During the hearing, the landlord pointed to addendum 5.17 of additional terms to the rental agreement in which the tenant agrees, "To clean all carpets as required but not less than once annually. On termination of tenancy, all carpets must be professionally cleaned and receipt for work completed provided."

The landlord also made reference to her letter of August 2, 2012 acknowledging the tenant's notice to vacate, setting out cleaning requirements for the end of the tenancy and including the statement that, "All carpets must be **professionally** cleaned." The word professionally was bold-faced on the original document.

The landlord submitted into evidence a copy of an invoice from a professional carpet cleaner for \$106.40 for having performed a "3-step steam cleaning of all carpeted areas..."

The invoice was dated October 31, 2012. The landlord stated that she believed the work had been done earlier but the tenant said she had called the company and was advised it had been on October 31, 2012. The landlord said that a new tenant moved in to the suite on November 1, 2012.

The tenant's agent, her daughter, stated that she had steamed cleaned the carpets at the end of the tenancy and that further cleaning was entirely unnecessary. She said, and the landlord concurred, that the rental unit had been left in pristine condition, as verified by the move-out condition inspection report and photographs submitted into evidence.

The landlord said she had discussed carpet cleaning with the tenant as the end of the tenancy approached and asked if she wished to arrange for the professional carpet cleaner herself or if she would like the landlord to take care of it. The tenant had said that her daughter would take care of it, which the landlord interpreted to mean that she would arrange for professional carpet cleaning.

Analysis

Section 14(2) of the Act states that, "A tenancy agreement may be amended to add, remove or change a term, other than a standard term, only if both the landlord and tenant agree to the amendment."

In the present matter, I find that there was no agreement to amend the requirement for professional carpet cleaning at the end of the tenancy.

The tenant was reminded of the agreement for professional carpet cleaning by the landlord's letter of August 2, 2012, but the tenant did not seek the landlord's consent to vary the requirement, and unilaterally substituted her daughter doing the cleaning.

While all parties agree that the carpets appeared clean, the landlord stated that assurance is given to all new tenants that the carpets have been professionally cleaned at the start of their tenancy and that they are required to do the same when they leave.

The tenant's agent stated that the landlord had suffered no loss, but I find that the invoice of October 31, 2012 for \$106.40 substantiates the cost to the landlord.

Accordingly, I find that the landlord is entitled to retain the cost of the carpet cleaning from the tenant's security deposit and to recover the filing fee for this proceeding from the tenant, and must return the balance and interest to the tenant, calculated as follows:

Tenant's credits		
Interest (May 1, 2002 to date)	<u>9.91</u>	
Sub total	\$289.91	\$289.91
Award to landlord		
Cost of professional carpet cleaning	\$106.40	
Filing fee	<u>50.00</u>	
Sub total	\$156.40	- <u>156.40</u>
TOTAL balance to be returned to tenant		\$133.51

Conclusion

The landlord is authorized to retain \$156.40 from the tenant's security deposit and must return \$133.51 to the tenant.

The tenant's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for the \$133.51 balance to be returned for service on the landlord if necessary.

The tenant's application 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: December 05, 2012.

Residential Tenancy Branch