



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Landlords: MNR, MNDC, MND, MNSD and FF
Tenant: MNSD and FF

Introduction

This matter was originally set for hearing on November 20, 2012 but was adjourned to the present with agreement of the parties due to a medical issue with one of the landlords.

The hearing addresses applications by both the landlords and the tenants.

The landlords' application of August 31, 2012 sought a monetary award for damage to the rental unit, unpaid rent, loss of rent and recovery of the filing fee for his proceeding and authorization to retain the security and pet damage deposit in set off.

The tenants' application of September 11, 2012 sought an order for return of their security and pet damage deposits in double and recovery of the filing fee for this proceeding.

Issue(s) to be Decided

The landlords' application requires a decision on whether they are entitled to a monetary award for claims submitted and authorization to retain the deposits in set off.

The tenant's application requires a decision on whether they are entitled to return of the security and pet damage deposits and whether the amounts should be doubled.

Background, Evidence and Analysis

This began in the last week of September 2011 and ended in August of 2012. Rent was \$850 per month due on the first day of the month and the landlords hold a security

deposit of \$425 and a pet damage deposit of \$300. There is no written rental agreement and no move-in or move-out condition inspection reports. The attending landlord stated that she had not done the former as the rental unit had been newly renovated and painted at the beginning of the tenancy and the parties dispute which of them was responsible for the failure to complete a move-out condition inspection.

Tenant's Claim

As to the tenant's claim, the attending tenant gave evidence that the landlord had given consent to the tenancy ending in mid-August 2012, an assertion challenged by the landlord. The landlord had initially claimed that the tenants' notice had varied and they never had given definitive notice in writing. However, the landlord concurred that she knew in July that the tenants would be vacating by August 31, 2012 at the latest. In the absence of any written agreement by the landlord that the tenants were relieved of their obligation to give notice as required under section 45 of the *Act*, I find that the tenancy ended on August 31, 2012.

As the landlords made application on August 31, 2012, within the 15 days allowed under section 38(1) of the *Act*, I find that the tenants cannot claim return of the deposits in double under section 38(6) of the *Act*.

The tenants' request for double the deposit is dismissed and they may only now qualify for return of the bare deposits or remaining portions, depending on the success of the landlord's claim.

Landlords' Claims

The landlords still retain the right to claim for damage or loss, and in their application have submitted a number of claims on which I find as follows:

Unpaid rent and loss of rent - \$1,275. The landlords had initially claimed \$425 of the rent for the remainder of August 2012 and loss of rent for September 2012 of \$850. However, on conceding that she had understood in July that the tenants would be vacating no later than August 31, 2012, the landlord withdrew the claim for loss of rent

for September 2012. As previously noted, having found that the tenancy ended on August 31, 2012 and as the tenants had paid only half of the August rent, I find that the tenants must pay the balance of the August rent and award \$425 of this claim.

Three hours to run self-cleaning oven cycle - \$75. The landlord stated that she claimed \$25 per hour of her time for this task as she would not leave the building while the oven was running so hot, but conceded that one of the landlords was on site at the time for other duties. This claim is dismissed.

Repair damage above 2nd bedroom window - \$50. The tenant agreed that she had put decals on the wall as claimed, but stated that they had only removed paint when taken off. The landlord stated that that paper had come off with the decals requiring patching, sanding and priming. In the absence of condition inspection reports, I reduce the award on this claim to \$25.

Removed wall paper border in 2nd bedroom - \$50. The tenant stated that the packaging on the wall paper border stated that it was removable. The landlord said that, nevertheless, it removed paper from the wall board, again requiring patching. In the absence of condition inspection reports, I reduce the award on this claim to \$25.

Paint walls in 2nd bedroom to original color - \$50. The tenant stated that the landlord had agreed to the tenant repainting the 2nd bedroom to accommodate a new baby. The landlord stated that she had done so on the understanding that the tenant would restore the room to the original neutral color and that the lime green applied by the tenants did not meet that condition. The landlord had withdrawn a claim for the paint, but claims \$50 for the labor. The claim is allowed.

Carpet cleaning - \$84. The tenant contested this claim on the grounds that she had steam cleaned the carpets herself at the end of the tenancy while the landlord stated she required professional cleaning. In the absence of a written rental agreement and condition inspection reports, I cannot assess the adequacy of the tenants' carpet cleaning and dismiss this claim.

Clean and repair walls - \$75. On the basis of photographic evidence which I accept as authentic despite the tenant's doubts, I find that this claim should be allowed.

Filing fee - \$50. On the landlords' failure to provide a written rental agreement or condition inspection reports, I decline to award the filing fee.

Security and pet damage deposits - (\$725). As empowered by section 72 of the Act, I authorize the landlords to retain the amount owed to them from the security and pet damage deposits.

Thus, I find that accounts balance as follows:

Tenants' credits		
Security deposit (No interest due)	\$425.00	
Pet damage deposit (No interest due)	<u>300.00</u>	
Sub total	\$725.00	\$725.00
Award to landlords		
Unpaid rent	\$425.00	
Repair damage above 2 nd bedroom window	25.00	
Removed wall paper border in 2 nd bedroom	25.00	
Paint walls in 2 nd bedroom to original color	50.00	
Clean and repair walls	<u>75.00</u>	
Sub total	\$600.00	- 600.00
Balance owed to tenant by landlords		\$125.00

Conclusion

The tenants' application is dismissed on its merits without leave to reapply.

The landlord is awarded a total of \$600 which may be retained from the security and pet damage deposits, and they must return the remainder \$125 to the tenants.

The tenant's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for **\$125.00** for service on the landlords if the amount is not paid within a reasonable time.

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: January 4, 2013.

Residential Tenancy Branch