



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MND, MNDC, MNSD, FF

Introduction

This hearing concerns the landlord's application 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 all or a part of the security & pet damage deposits / and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

Issue(s) to be Decided

Whether the landlord 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 tenancy which began on October 1, 2011. Monthly rent of \$1,400.00 was due and payable in advance on the first day of each month. A security deposit of \$700.00 and a pet damage deposit of \$700.00 were both collected. A move-in condition inspection report was completed on September 26, 2011 with the participation of both parties.

Tenancy ended on October 31, 2012, at which time a move-out condition inspection report was completed with the participation of both parties. Thereafter, the landlord's application for dispute resolution was filed on November 13, 2012.

During the hearing the parties exchanged views on circumstances surrounding various aspects of the dispute, and undertook to achieve at least some resolution.

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

Section 63 of the Act speaks to the **Opportunity to settle dispute**, and provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties led to resolution of certain aspects of the landlord's claim. Based on the documentary evidence and testimony, the various aspects of the landlord's claim, the agreements reached for those parts resolved, in addition to my findings around those parts unresolved are set out below.

\$403.00: *repair of holes in walls*. Residential Tenancy Policy Guideline # 1 addresses "Landlord & Tenant – Responsibility for Residential Premises," and under the heading WALLS, provides as follows:

Cleaning:

The tenant is responsible for washing scuff marks, finger prints, etc. off the walls unless the texture of the wall prohibited wiping.

Nail holes:

1. Most tenants will put up pictures in their unit. The landlord may set rules as to how this can be done e.g. no adhesive hangers or only picture hook nails may be used. If the tenant follows the landlord's reasonable instructions for hanging and removing pictures / mirrors / wall hangings / ceiling hooks, it is not considered damage and he or she is not responsible for filling the holes or the cost of filling the holes.
2. The tenant must pay for repairing walls where there are an excessive number of nail holes, or large nails, or screws or tape have been used and left wall damage.
3. The tenant is responsible for all deliberate or negligent damage to the walls.

Documentary evidence in support of this aspect of the claim is mainly comprised of photographs, some of which show screws left in certain walls and a few assorted marks. The move-out condition inspection report is virtually silent on damage to walls. Further, the documentation in support of the compensation claimed is limited to a professional estimate; there is no receipt or invoice with a "PAID" stamp to indicate that the work was undertaken by a professional and the related cost was incurred by the landlord. In view of all the foregoing, I find that the landlord has established entitlement to nominal compensation in the limited amount of **\$50.00**.

\$179.20: *cleaning required in the unit.* Discussion between the parties led to an agreement to resolve this aspect of the claim for **\$70.00**.

\$72.50: *replace towel rack / mounting.* Discussion between the parties led to an agreement to resolve this aspect of the claim for **\$26.00**.

\$20.00: *magnetized knife rack.* Discussion between the parties led to an agreement to resolve this aspect of the claim for **\$25.00**.

\$200.00: *cleaning / power washing outside patio (labour & equipment rental).* There are no receipts in evidence and the move-in / move-out condition inspection reports are silent on the condition of the patio. Relevant documentary evidence is comprised mainly of photographs. In summary, I find that the landlord has established entitlement limited to **\$40.00**.

\$196.00: *professional bathtub repair.* Discussion between the parties led to an agreement to resolve this aspect of the claim for the full amount sought by the landlord.

\$54.00: *estimated value of landlord's time in association with repair to bathtub.* I find that this aspect of the claim reflects the landlord's "cost of doing business," and it is therefore hereby dismissed.

\$299.60: *repair to laminate flooring in living room.* The landlord testified that this damage was not noticeable at the time when the parties completed the move-out condition inspection, and the principal documentary evidence in support of the compensation claimed is comprised of a professional estimate of cost for labour ("new wood flooring to be supplied by customer"). In the absence of a receipt or an invoice with a "PAID" stamp to indicate that the work was actually undertaken by a professional and the cost was incurred by the landlord, this aspect of the application is hereby dismissed.

\$50.00: *removal of discarded filing cabinet.* Discussion between the parties led to an agreement to resolve this aspect of the claim for the full amount sought by the landlord.

\$50.00: *filing fee.* As the landlord has achieved a measure of success with this application, I find that she has established entitlement to recovery of the full amount.

Sub-total: \$507.00.

I order that the landlord retain **\$507.00** from the security / pet damage deposits combined of **\$1,400.00** (\$700.00 + \$700.00), and I order the landlord to repay the balance to the tenant in the amount of **\$893.00** (\$1,400.00 - \$507.00).

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **\$893.00**. Should it be necessary, this order may be served on the landlord, 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: February 14, 2013

Residential Tenancy Branch

