



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Pemberton Holmes Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MND, MNSD, and FF

Introduction

The hearing was convened on the landlord's application of January 15, 2013 seeking a monetary award for unpaid rent and utilities, general cleaning, carpet cleaning, 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.

Issue(s) to be Decided

This application requires a decision on whether the landlord is entitled to a monetary award for the claims submitted.

Claims in damages require that several factors be taken into account: whether damages are proven and attributable to the tenant, the comparison of move-in vs. move-out condition inspection reports, 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 and Evidence and Analysis

This tenancy began on December 1, 2010 and ended on December 31, 2012. Rent was \$2,586 per month and the landlord holds a security deposit of \$1,264 paid on November 12, 2010.

During the hearing, the landlord submitted into evidence copies of the rental agreement, move-in and move-out condition inspection reports, paid invoices, photographs and a copy of the tenant's ledger in support the landlord's claims and on which I find as follows:

Rent – \$1,110.55. The tenant concurred with this claim and it is allowed in full.

Utilities - \$806.14. The tenant concurred with this claim, subject to the landlord providing a copy of one missing invoice which the landlord verified as true to the claim and promised to provide the tenant with the copy. Subject to either party's right to request a correction, this claim is allowed in full.

General cleaning - \$268.80. This claim is based on a paid invoice for eight hours work at \$30 per hour. The tenant contested the claim on the grounds that she had spent several hours cleaning, although she acknowledged she had not cleaned the stove and fridge. On the basis of photographic evidence, I find that additional cleaning was necessary, but reduce the claim by one-third to the prevailing rate of \$20 per hour plus GST and award \$179.02.

Carpet cleaning – \$223.60. The landlord submitted this claim for stain removal from the carpets, after the tenant had provided her with an invoice for \$201 she had paid to have the carpets professionally cleaned a few days before the end of the tenancy. While the tenant acknowledged one large stain, she stated that a number of others claimed by the landlord had been there when the tenancy began. While the landlord submitted a number of photos of the stains, I note that the copy of the move-out condition inspection report signed by the tenant on January 1, 2013 does not refer to the stains while another copy, not signed by the tenant, does so. I find, on the balance of probabilities that the tenant is partially responsible for the staining and allow one-half of this claim, which is \$111.80.

Repairs – \$573.76. The landlord submitted a copy of an invoice from a service provider for \$708.76 which she had initially reduced to \$690 after deducting charges for sink plugs and repair of closet doors and a drawer. However, on reviewing those deductions against the hours claimed against them, she further reduced the claim to \$573.76. The balance of the invoice was for refuse removal from front and back yards and garage, light bulb replacement, replacement off dining room blinds, and repainting the entry way and walls on the stairway. The landlord stated that the partial repainting was necessitated by a couple dents in the wall, although she noted that home had not been painted in the previous four years, the standard useful life of interior paint for depreciation purposes. The tenant contested the claim that there was refuse in the front and back yards, but agreed that some had been left in the garage. Taking into account normal wear and tear and depreciation, and the vague itemization on the invoice vs photographs showing the blinds virtually destroyed and outer deck showing clear signs off neglect, I am satisfied that the landlord has proven one-half of this claim and award \$286.88.

Filing fee - \$50. As the application has succeeded on its merits, I find that the landlord is entitled to recover the filing fee for this proceeding from the tenant.

Security deposit – (\$1,264). As authorized by section 72 of the *Act*, I hereby order that the landlord shall retain the security deposit in set off against the balance owed.

Rent	\$1,110.55
Utilities	806.14
General cleaning	179.02
Carpet cleaning	111.80
Repairs	286.88
Filing fee	50.00
Sub total	\$2,544.39
Less retained security deposit	- 1,264.00
TOTAL	\$1,280.39

Conclusion

In addition to authorization to retain the tenant's 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 **\$1,280.39** for service on the tenant.

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: March 21, 2013

Residential Tenancy Branch

