



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MND; MNSD; MNDC; FF

Introduction

This is the Landlords' application for a Monetary Order for damages; to retain the security deposit in partial satisfaction of their monetary award; and to recover the cost of the filing fee from the Tenants.

The parties gave affirmed testimony at the Hearing.

The Tenants acknowledged receipt of the Notice of Hearing package, which the Landlords sent by registered mail on March 5, 2013. The Tenants also acknowledged receipt of the Landlords' documentary evidence, sent by registered mail on May 13, 2013.

The male Landlord acknowledged receipt of the Tenants' documentary evidence which was hand delivered to the Landlord on May 15, 2013.

Issues to be Decided

- Are the Landlords entitled to a monetary award for the cost of cleaning the rental unit and for the cost of repairing damage to the rental unit?
- May the Landlords apply the security deposit towards partial satisfaction of their award?

Background and Evidence

A copy of the tenancy agreement was provided in evidence. This tenancy began on February 15, 2012, and ended on February 26, 2013. Monthly rent was \$675.00, due on the first day of each month. The Tenants paid a security deposit in the amount of \$337.50 at the beginning of the tenancy.

The Landlord stated that he allowed the Tenants to move in early, but that they understood that he was going to be redoing the kitchen. He stated that he also allowed

them to end the tenancy at the end of February, 2013, even though they did not provide sufficient notice.

He testified that the Tenants did not leave the rental unit reasonably clean and undamaged at the end of the tenancy. In particular, he said the Tenants:

- did not shampoo the carpets
- did not clean the oven or stove top
- did not clean the kitchen floor
- did not clean the bathroom
- left crumbs and debris in the kitchen cupboards
- did not clean the window sills
- left holes in the walls
- removed the batteries from the smoke detector
- did not replace burned out light bulbs

The Landlord provided a copy of the Condition Inspection Report and 22 photographs of the rental unit in evidence. He also provided copies of receipts for carpet cleaning, cleaning supplies, painting supplies, and batteries.

The Landlord seeks a monetary award, calculated as follows:

Landlord's labour to clean the rental unit (4 hrs @\$25.00 an hour)	\$100.00
Cost of carpet cleaning	\$112.00
Cost of cleaning supplies	\$49.09
Landlord's labour repairing walls and painting (4.5 hrs \$20.00)	\$112.50
Painting supplies	\$88.42
Batteries for smoke detector	<u>\$17.91</u>
TOTAL	\$479.92

The Tenants stated that they spent 9 hours cleaning when they moved into the rental unit because it was not clean.

The Tenants testified that they cleaned the carpets at the end of the tenancy with a professional sized steam cleaner that they borrowed from an employee of the CRD. The Tenant's witness stated that she and her boyfriend were there when the carpets were cleaned, at about 9:00 a.m. in mid February, 2013. The Tenants testified that the carpets were stained when they moved in and that the stains would not come out.

The Tenants stated that the kitchen floor under the stove was not clean when they moved into the rental unit, and that it was stained with cat urine from the previous tenants' cat.

The Tenants stated that the bathroom was dirty when they moved in.

The Tenants testified that they did not use one of the cupboards because it was stained and dirty when they moved in. They stated that the other cupboards in the Landlord's photos show construction dust because they were new drawers. The Tenants stated that they didn't use them and submitted that they should not have to pay for cleaning up the construction dust.

The Tenants testified that the stains on the convection oven were from cooking and would not come out. They stated that the cooktop was clean on the top, just not underneath the burners.

They acknowledged that the freezer and the window sills were not wiped down, but stated that they wanted to come back and do more cleaning after the inspection on February 26, 2013. The Tenants stated that the Landlord would not let them back in to finish cleaning, even though they had paid in full for the month of February, 2013.

The Tenants acknowledged that they removed the batteries from the smoke detector. They stated that the detector was very sensitive and would go off whenever they had a shower or made a piece of toast.

The Tenants stated that the marks on the walls were there when they moved in and that the small holes in the doors were made by pushpins that the previous tenants had left in the doors.

The Tenants provided 39 photographs in evidence that they stated they took at the beginning of the tenancy.

The Landlord stated that the Tenants made no attempts to contact him to return and finish the cleaning. He stated that the convection oven cleaned up nicely and was not stained, but had crumbs and cheese in it. He said that it took two hours to clean the stove top.

The Landlord questioned when the Tenant's photographs were taken and stated that the Tenants signed the Condition Inspection Report at the beginning of the tenancy, indicating that everything was clean. He stated that the same smudge appears on all

the photographs in the same location and wondered if it was a smudge on the lens of the camera and not stains on the carpet.

Analysis

Section 37(2) of the Act requires tenants to leave a rental unit reasonably clean and undamaged except for reasonable wear and tear.

Section 21 of the Residential Tenancy Regulation provides that a condition inspection report is evidence of the state of repair and condition of a rental unit on the date of the inspection unless the Landlord or Tenant has a preponderance of evidence to the contrary.

Both parties provided photographic evidence. During the course of the Hearing, the Tenants did not dispute that the Landlord's photographs showed an accurate depiction of the rental unit at the end of the tenancy. They simply stated that **the rental unit was dirty and damaged when they moved in.**

However, the Condition Inspection Report indicates that on February 15, 2012, **the rental unit was clean and undamaged, save for "small marks" on the floors in the kitchen.** The female Tenant signed the Condition Inspection Report, indicating her agreement with the assessment on February 15, 2012.

At the end of the tenancy, the male Tenant did not agree with the Landlord's assessment of the condition of the rental unit and wrote on the Condition Inspection Report, "**The proper cleaning was done** and a [unreadable word] amount of time was put into the rental **to ensure it was in the same condition as we received it.**"

I find that there were inconsistencies between the Tenants' testimony and the documentary evidence provided. Therefore, I find that the Landlord has provided the preponderance of convincing evidence and on the balance of probabilities has proven his claim.

Therefore, I find that the Landlords have established their monetary claim in the amount of **\$479.92.**

Pursuant to Section 72(2)(b) of the Act, the Landlords may apply the security deposit towards partial satisfaction of their monetary award. No interest has accrued on the security deposit.

The Landlords have been successful in their application and I find that they are entitled to recover the cost of the **\$50.00** filing fee from the Tenants.

I hereby provide the Landlords a Monetary Order, calculated as follows:

Monetary award	\$479.92
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$529.92
Less security deposit	- \$337.50
TOTAL AMOUNT DUE TO THE LANDLORDS AFTER SET-OFF	\$192.42

Conclusion

I hereby provide the Landlords with a Monetary Order in the amount of **\$192.42** for service upon the Tenants. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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: June 03, 2013

Residential Tenancy Branch

