



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC and FF

Introduction

By application of April 4, 2013, the landlord sought a monetary award of \$4,020 for damage to the rental unit and recovery of the filing fee for this proceeding.

Issue(s) to be Decided

This matter requires a decision on whether the landlord is entitled to monetary award for the claims for cleaning and repairs to the rental unit and in what amounts.

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. The burden of proof falls to the applicant.

Background, Evidence and Analysis

This tenancy began on January 1, 2009 under a rental agreement in which the present tenant lived under her father's tenancy agreement with the landlord. The tenant and her father signed a 12 month fixed term rental agreement on February 19, 2013 for the period from March 1, 2012 which was amended by written agreement signed on April 26, 2013 to include only the present tenant after her father had left the tenancy.

Rent was \$1,950 per month and the landlord held a security deposit of \$975 paid at the beginning of the father's tenancy.

By letter of November 29, 2012, the tenant gave notice that she would be leaving the tenancy on December 31, 2012. By written agreement of December 28, 2012, the tenant agreed that she had vacated the rental unit on December 27, 2012 and the landlord released her from all obligation and duties of the lease (fixed term agreement.)

As a matter of note, this tenancy was the subject of a hearing on March 22, 2013 when the tenant's application for return of her security deposit in double under section 38(6) of the Act succeeded on the grounds that the landlord had retained her security deposit with her consent or an order arising from an application to claim against it. The parties concur that the order has been satisfied.

In the present application, the landlord submitted into evidence a copy of the rental agreement, move-in condition inspection report, photographs and receipts for repairs to the rental unit. The tenant also submitted documentary evidence with explanations disputing some of the landlord's claims as well as letters from two persons who had assisted her with packing and cleaning and who stated they had not noted any damage in the rental unit.

The landlord stated that the tenant had declined to participate in the completion of the move-out condition inspection report, but the tenant stated that the landlord had not brought the forms used for that purpose. The landlord had submitted a copy of the tenant's notice letter and pointed out the comment in it that, "I would like to assure you that the home will be in impeccable condition as it was (*when I*) moved in.

The landlord claims and I find as follows:

Paint and plaster - \$308.68. This claim is supported by receipts and is for materials purchased to repair damage to various walls and trim. The landlord stated that the rental unit had previously been painted in 2006. As I noted during the hearing, standard depreciation tables place the useful life of interior paint at four years, although the landlord may still claim a portion for damage beyond normal wear and tear. On the basis of photographic evidence and on testimony of both parties that the tenant had an unauthorized kitten in the rental unit and a child had lived with her from three to six years of age, I find some of the repairs beyond normal wear and tear. Therefore, I will allow \$100 on this claim.

Toilet repair - \$205.80. This claim is supported by a plumber's receipt and the tenant acknowledged that a portion of the child's toilet booster seat had fallen in and had become lodged in the trap. This claim is allowed in full.

Carpet cleaning - \$190.40. While the tenant stated that she had cleaned the carpets, the landlord stated that they appeared to be in need of further cleaning when he inspected the rental unit. He said he felt the need to have the carpets professionally sanitized as the tenant had brought an unauthorized kitten into the rental unit. The carpet cleaner's invoice itemizes cleaning, sanitizing and stain removal. I find the landlord was justified in arranging for the additional work and the claim is allowed in full.

Dumping fees - \$20.75. On the grounds of the photographic evidence of refuse left behind, this claim is allowed in full.

Labour for interior painting - \$1,200. As noted, the interior paint was fully depreciated and the tenant is relieved of this claim.

Driveway cleaning - \$425. This claim is supported by a paid invoice and photographic evidence showing some small spot stains and a large blue or purple stain on the exposed aggregate driveway. The tenant stated that she and her father had power washed the driveway annually to clean out the cracks between sections. I find that part of this cost falls within the landlord's duty to repair and maintain the rental property and allow \$200 of this claim.

Replace one set of blinds \$156.80. The tenant took responsibility for damage to a set of blinds and this claim, supported by receipt and photos, is allowed in full.

Faucet cover - \$2.00. This claim had been mixed in with a \$38 receipt for a door lock for which the landlord did not claim. The tenant acknowledged that it needed to be replaced and the claim is allowed.

Floor and railing repair materials - \$74.54. The tenant acknowledged damage to the stair railing but challenged some spot punctures in the hardwood floor finishing as pre-existing. As there is no notation of the floor marks on the move-in condition inspection report, and as I am uncertain as to which of the parties is responsible for the failed move-out condition inspection report, I find the floor marks stand out and would have been noticed at the first inspection. Therefore, this claim is allowed in full.

Interior cleaning - \$200. The landlord claims 10 hours labour at \$20 per hour for interior cleaning. While I accept the evidence of the tenant and the written submissions of her friends that they did a substantial amount of cleaning, on the basis of photographic evidence I find that additional cleaning was required and I find that the amount asked is reasonable. This claim is allowed in full.

Exterior cleaning - \$200. Again, this claim is based on 10 hours of work at \$20 per hour. While the tenant stated that the time of year at which the tenancy ended was not conducive to yard work, I find that landlord's photographs indicated a long period of neglect. This claim is allowed in full.

Painting preparation - \$300. Taking into account that the interior paint was fully depreciated, I find the tenant is responsible for \$150 of this claim due to the damage to baseboards and trim beyond normal wear and tear.

Railing and floor scratches labour - \$150. These claims are allowed in full.

Repair drain pipe - \$50. This item appears to refer to a damaged inspection/cleanout portal for the perimeter drains. The tenant denies any knowledge of what caused this damage and suggests that it may have been done by neighbours. However, the pipe involved is adjacent to a front corner of the house and is separated from the neighbour by a full fence. I find the damage was caused by the tenant or a guest of the tenant and the claim is allowed.

Repair gutters and damaged vinyl siding - \$500. The tenant claims no knowledge of damage to at least four sections of the vinyl siding on the house. Of the damage to the nearby corner section of the eaves trough, she voiced a vague recollection of a service truck on the street catching a wire which resulted in a chain reaction causing the damage.

She stated she had attempted unsuccessfully to obtain an incident report from the company responsible. As the damage to the vinyl siding is very prominent, I find on the balance of probabilities that the parties would certainly have noted it on the move-in condition inspection report if it had been there at the time. As to the damage to the eaves trough, I find that the tenant had a duty to report it to the landlord in a timely manner when he would have an opportunity to investigate the cause. Therefore, I find that the tenant is responsible for the repairs.

However, as the work has not yet been performed, I will reduce the award on this claim to \$350 to ensure that the tenant's share remains within the actual cost of the work.

I would note that, while the landlord has made no specific claim for it, one of the photographs shows a very large section of burn mark rising about six feet above a baseboard heater with severe scorching for most of the width of the heater just above it. Clearly, at some point, the rental building has been perilously close to a fire outbreak.

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

Thus, I find that the tenant owes to the landlord an amount calculated as follows:

Paint and plaster	\$ 100.00
Toilet repair	205.80
Carpet cleaning	190.40
Dumping fees	20.75
Driveway cleaning	200.00
Replace one set of blinds	156,80
Faucet cover	2.00
Floor and railing repair materials	74.54
Interior cleaning	200.00
Exterior cleaning - \$200	200,00
Painting preparation	150.00
Railing and floor scratches labour	150.00
Repair drain pipe	50.00
Repair gutters and damaged vinyl siding	350.00
Filing fee	<u>50.00</u>
TOTAL	\$2,179.49

Conclusion

The landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for **\$2,179.49** 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: June 24, 2013

Residential Tenancy Branch

