



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GREATER VICTORIA HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Code MNDC, MNSD, FF

Introduction

This hearing was convened in response to applications by the landlord and the tenant.

The landlord's application is seeking orders as follows:

1. For a monetary order for money owed for loss or damage under the Act;
2. To keep all or part of the security deposit; and
3. To recover the cost of filing the application.

The tenant's application is seeking an order as follows:

1. Return all or part of the security deposit.

Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Is the landlord entitled to monetary compensation for loss or damages?
Is either party entitled to the security deposit?

Background and Evidence

The tenancy began on August 1, 2012. Rent in the amount of \$507.00 was payable on the first of each month. A security deposit of \$233.00 was paid by the tenant. The tenancy ended on March 28, 2013.

The parties agreed a move-in and move-out condition inspection report was completed. However, the tenant did not agree to pay for carpet cleaning and did not sign the report.

Landlord's application

The landlord claims as follows:

a.	Carpet Cleaning	\$ 60.00
b.	Hearing Preparation and mail cost	\$150.00
	Total claimed	\$210.00

Carpet Cleaning

The landlord's agent testified that the tenant did not clean the carpets at the end of tenancy. The landlord stated the tenant left the unit in a satisfactory condition, however, it is their policy that the carpets must be professional cleaned at the end of the tenancy.

The landlord's agent testified that there were no pets in the rental unit and no evidence of staining on the carpets.

The tenant testified that the carpets were in perfect condition at the end of the tenancy and did not need cleaning. The tenant stated when he spoke to the landlord he was informed that he was not allowed to have the carpets cleaned with a rug doctor.

Hearing Preparation and mail cost

The landlord's agent testified by the tenant not signing the paper work it created a lot of extra work for them to prepare for the hearing.

Tenant's application

The tenant claims as follows:

a.	Return of security deposit	\$ 233.00
	Total claimed	\$ 233.00

The tenant writes in their application "to return the damage deposit."

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities.

To prove a loss and have one party pay for the loss requires the claiming party to prove four different elements:

- Proof that the damage or loss exists;
- Proof that the damage or loss occurred due to the actions or neglect of the Respondent in violation of the Act or agreement;
- Proof of the actual amount required to compensate for the claimed loss or to repair the damage; and
- Proof that the Applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails. In this case, each party has the burden of proof to prove their claim.

Landlord's application

Carpet Cleaning

Under section 37 of the Act, the tenant is required to return the rental unit to the landlord reasonably clean and undamaged, except for reasonable wear and tear. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

Under the Residential Policy Guideline 1, which clarifies the rights and responsibilities of the parties for the premises under the Act, the tenant is generally expected to clean the carpets if vacating after a tenancy of one year. Where the tenant has deliberately or carelessly stained the carpet they will be held responsible for cleaning the carpets at the end of the tenancy regardless of the length of tenancy.

In this case, the evidence was the tenant resided in the unit for eight months. The evidence of both parties was there were no visible signs of any staining on the carpets at the end of the tenancy. As result, I find the landlord has failed to prove the tenant has violated the Act. Therefore, I dismiss this portion of the landlord's claim.

Hearing Preparation and mail cost

In this case, the landlord is claiming for the cost for hearing preparation and mailing cost. However, I find there is no provision under that Act that allows the landlord to claim for these costs. Therefore, I dismiss this portion of the landlord's claim.

In light of the above, the landlord's application is dismissed. The landlord is not entitled to recover the cost of filing their application from the tenant. The landlord is not authorized to retain any portion of the tenant's security deposit.

Tenant's application

As I have dismissed the landlord's application. The tenant is entitled to the return of their security deposit in the amount of \$233.00. I grant the tenant a formal monetary order, should the landlord fail to comply with this order.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The landlord's application is dismissed.

The tenant's application is granted and is granted a formal order in the above amount, should the landlord fail to return the tenants security deposit.

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 28, 2013

Residential Tenancy Branch