



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, MNSD, O and FF

Introduction

By application of May 6, 2013, the landlord sought a monetary award for damage to the rental unit, damage or loss under the rental agreement or legislation, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

Despite having been served with the Notice of Hearing sent by registered mail on May 14, 2013 to a forwarding address provided by the tenants, they did not call in to the number provided to enable their participation in the telephone conference call hearing. Therefore, it proceeded in their absence.

Issue(s) to be Decided

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

Claims in damages require that several factors be taken into account: whether damages are proven and attributable to the tenants, 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, Evidence and Analysis

This tenancy began on January 1, 2012 and ended on April 30, 2013. Rent was \$1,100 per month and the landlord holds a security deposit of \$550 paid at the beginning the tenancy. It is noteworthy that the rental unit was brand new at the beginning of the tenancy.

The landlord submitted into evidence a copy of the move-in/move out condition inspection reports, numerous photographs and receipts for repairs to the rental unit in support of her claims on which I find as follows:

Painting - \$1,890. This claim is supported by a paid receipt. The landlord stated that even though the rental unit had been occupied by the tenants for only 16 months, repainting was made necessary by the fact that the tenants had smoked heavily in the rental unit in breach of the rental agreement. The landlord stated that the breach had been even more significant as she had advised the tenants at the beginning of the tenancy that she was allergic to tobacco smoke and would be moving into the rental unit herself eventually. While standard depreciation tables place the useful life of interior paint to four years which would reduce the award on this claim by a third, I award \$1,500 due to the added cost eradicating the tobacco odours.

Carpet replacement - \$749.81. This claim is supported by receipts of \$581.81 for carpet and underlay and \$168 for the cost of installation. The landlord stated that she had explored having the carpets cleaned but had been advised that success could not be assured. In addition to the odour of tobacco in the carpets, the tenants had acquired a cat without consent resulting in apparent urine stains and probable penetration to the underlay. Taking into account that standard depreciation tables place the useful life of carpets at 10 years, I award \$675 on this claim.

Replace glass stove top - \$459.01. This amount is based on a price quote to replace the glass stove top which the landlord is stated has been scratched beyond repair but which has not yet been replaced. The landlord stated that she had given the tenants instruction on the proper method of caring for the glass top at the beginning of the tenancy but it appeared the stove had not been cleaned at all during the tenancy. In view of the extraordinarily high cost of replacement, the photographic appearance that the damage may only be cosmetic and reducible by appropriate products, I reduce the award on this claim to \$100 for diminishment of the value of the stove.

Replace fridge shelf - \$32.14. On the basis of photograph evidence and receipt, this claim is allowed in full.

Freezer door - \$420.04. The landlord stated that the tenants had left a massive dent in the freezer door of the refrigerator's freezer door. Given the cost of replacing it, the landlord stated that she had not done so. Therefore, I will allow \$150 on this claim for diminishment of the value of the refrigerator.

General cleaning - \$203.70. Given the severe need of cleaning recorded on the move out condition inspection report, this claim – supported by a receipt and photographic evidence – is allowed in full.

Locksmith charges - \$116.80. This receipted cost was incurred as a result of the tenants' failure to return keys and it is allowed in full.

Strata key fob charge - \$75. As the tenant's did not return a key fob, the landlord was required to pay the strata corporation for its replacement. The claim is allowed in full.

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

Security deposit – (\$550). As authorized by section 72 of the *Act*, I order that the landlord retain the security deposit in set off against the balance owed to her by the tenants.

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

Painting	\$1,500.00
Carpet replacement	675.00
Glass stove top	100.00
Replace fridge shelf	32.14
Damage to freezer door	150.00
General cleaning	203.70
Locksmith charges	116.80
Strata key fob charge	75.00
Filing fee	<u>50.00</u>
Sub total	\$2,902.64
Less retained security deposit (No interest due)	- 550.00
TOTAL	\$2,352.64

Conclusion

In addition to authorization to retain the security deposit in set off, the landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for **\$2,352.64** for service on the tenants.

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: July 31, 2013

Residential Tenancy Branch

