



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC, FF

Introduction

This hearing was scheduled in response to the landlord's application for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee. Both parties attended and / or were represented and gave affirmed testimony.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

A previous hearing was held is a dispute between these parties on January 23, 2013 (file # **redacted**). Pursuant to the decision issued by that same date, a monetary order was granted in favour of the tenant for \$1,550.00. The monetary order reflects compensation in the double amount of the original security deposit (2 x \$750.00), in addition to reimbursement of the \$50.00 filing fee.

The landlord's agent testified that the tenancy began on March 15, 2007, whereas the tenant testified that it may have been as early as 2006. There were two tenants in the beginning, however, one of these tenants later moved out. A move-in condition inspection report was completed with the participation of both parties, and tenant "PC" testified that it was the other tenant who participated. The move-in condition inspection report documents that the date of possession was March 15, 2007.

After giving notice, the tenant who is the subject of this application testified that he finished vacating the unit on October 1, 2012. Further, the tenant testified that the landlord walked around in the unit while the tenant was still cleaning, and that new renters began moving into the unit on October 1, 2012.

As to the provision of a forwarding address, in the decision of January 23, 2013, it is noted that both parties appear to agree that the tenant provided a forwarding address in writing sometime in October 2013. The tenant's forwarding address appears on the move-out condition inspection report.

The tenant's signature does not appear on the move-out condition inspection report. In his application the landlord claims that the tenant "failed to attend," however the tenant testified that the landlord did not approach him with regard to completing the report. The tenant testified that he only received a copy of the move-out condition inspection report when he was served with the landlord's hearing package for the purposes of this present hearing.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

The attention of the parties is drawn to the following particular statutory provisions:

The Act

Section 23: **Condition inspection: start of tenancy or new pet**

Section 24: **Consequences for tenant and landlord if report requirements not met**

Section 35: **Condition inspection: end of tenancy**

Section 36: **Consequences for tenant and landlord if report requirements not met**

The Regulation

Part 3: **Condition Inspections** (sections 14 to 21)

Based on the documentary evidence and testimony, the various aspects of the landlord's application and my findings around each are set out below.

\$3,785.00 & \$454.20 (HST): *replace carpet & underlay in dining and living areas.*

Carpets were cleaned towards the end of this tenancy and new renters took possession shortly thereafter. The amount claimed for replacement represents an estimate, and as the carpet and underlay were never actually replaced, ultimately no cost has been incurred. In the result, this aspect of the claim is hereby dismissed.

\$200.00 & \$24.00 (HST): *replace refrigerator.*

This aspect of the claim represents the purchase price of a pre-owned fridge, and a receipt in support of the amount claimed is enclosed in evidence.

Residential Tenancy Policy Guideline # 40 speaks to the “Useful Life of Building Elements,” and provides that the useful life of a refrigerator is 15 years. There is no conclusive evidence in regard to either the age of the original refrigerator or the replacement. Further, there is no detailed information on the move-out condition inspection report as to any particular problem with the refrigerator. The tenant testified to his understanding which is that the landlord had already decided to dispose of it. Further, while the tenant acknowledged that it had lost its cosmetic appeal as a result of years of wear and tear, he maintained that it still functioned. In summary, I find the landlord has failed to meet the burden of proving entitlement to this aspect of the claim, and it is hereby dismissed.

\$300.00: *replace marble & tile around fireplace.*

The tenant testified that the marble and tile around the fireplace were not subjected to any abuse during the term of his tenancy, and that in any event, they were not in new condition when the tenancy began. Residential Tenancy Policy Guideline # 40 provides that the useful life of tile is 10 years. Further to the foregoing, and in the absence of any indication of the age of the marble or tile when tenancy began, I find that the tenant's contribution to their decline is limited to reasonable wear and tear. Accordingly, this aspect of the application is hereby dismissed.

\$450.00 & \$54.00 (HST): *carpet cleaning.*

Section 37 of the Act speaks to **Leaving the rental unit at the end of a tenancy**, in part as follows:

37(2) When a tenant vacates a rental unit, the tenant must

(a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and....

Residential Tenancy Policy Guideline # 1 addresses “Landlord & Tenant – Responsibility for Residential Premises,” and under the heading – **CARPETS**, provides in part as follows:

3. The tenant is responsible for periodic cleaning of the carpets to maintain reasonable standards of cleanliness. Generally, at the end of the tenancy the tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year. Where the tenant has deliberately or carelessly stained the carpet he or she will be held responsible for cleaning the carpet at the end of the tenancy regardless of the length of tenancy.

4. The tenant may be expected to steam clean or shampoo the carpets at the end of a tenancy, regardless of the length of tenancy, if he or she, or another occupant, has had pets which were not caged or if he or she smoked in the premises.

The tenant acknowledged that he did not have the carpets cleaned at the end of tenancy, and he acknowledged that there were variously either two cats or one cat kept in the unit during the term of tenancy. There is no evidence of a pet damage deposit having been collected. Accordingly, I find that the landlord has established entitlement to the full amount claimed.

\$150.00: repair kitchen cabinets and doors.

The landlord's agent testified that while this work has now been completed, there are no related receipts in evidence. For his part, the tenant testified that the kitchen cabinets and doors required repair as a result of normal wear and tear well before the end of his tenancy. There is no evidence before me in regard to the age of the kitchen cabinets or doors when tenancy began. In short, I find that the landlord has failed to meet the burden of proving entitlement to this aspect of the claim and it is therefore dismissed.

\$50.00: filing fee.

As the landlord has achieved limited success with his application, I find that he has established entitlement limited to **\$25.00**.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$529.00** (\$450.00 + \$54.00 + \$25.00). Should it be necessary, this order may be served on the tenant, filed in the Small Claims Court 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: August 13, 2013

Residential Tenancy Branch

