



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MND, MNDC, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for money owed or compensation for damage or loss and damage to the rental unit, for authority to retain the tenant's security deposit and for recovery of the filing fee.

The parties and the tenant's mother appeared, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

The evidence was discussed and no party raised any issue regarding service of the evidence.

Thereafter all parties gave affirmed testimony, were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation, to retain the tenant's security deposit, and to recover the filing fee?

Background and Evidence

The undisputed evidence shows that this tenancy began on November 1, 2010, ended on April 30, 2013, monthly rent began at \$1500, was later reduced to \$1400 and the tenant paid a security deposit of \$750 at the beginning of the tenancy.

The landlord's monetary claim is comprised of the following:

Replace oven door	\$123.22
Locks rekeyed	\$73.50
Carpet cleaning	\$336
Curtains and towel bars	\$89.49
Curtain rods	\$56
Light bulbs, doorstops, sink plugs	\$97.46
Cleaning costs	\$1560
Repairs of damages	\$1919.54
Filing fee	\$100
Carpet replacement	\$6015.16
TOTAL	\$10,320.37

The landlord's relevant documentary evidence included photographs of the rental unit taken after the tenancy ended, a condition inspection report containing information at the move-in and the move-out, a quotation for carpet replacement, an invoice for a cleaning service, an invoice for repairs and receipts for materials.

The parties provided the following oral evidence in support of and in response to the landlord's claim-

Cleaning-

The landlord submitted that the tenant left the rental unit in such a dirty state that 52 hours were required to be spent in cleaning the home. More particularly, the landlord said that there was mould and food caked on the shelves in the refrigerator and that there was not a clean room in the house.

The landlord pointed to the photographs of the rental unit and an invoice for cleaning.

In response the tenant's mother said that she attended the final walk-through of the rental unit at the end of the tenancy and denied that the state of the rental unit took anywhere close to 52 hours to clean. The tenant's mother estimated that there would possibly be 5-6 hours needed to clean.

The tenant said he cleaned the rental unit prior to vacating.

Repairs to damage and materials-

The landlord said that the tenant damaged the rental unit, which required repairing. The landlord in particular submitted that there was drywall repair, three closet doors were replaced, a pantry door was damaged, a shower bar was replaced, and the refrigerator door was damaged.

The landlord also claimed that curtain rods, the oven door, door stops, sink plugs, curtains, and light bulbs, among many other things, needed repair or replacing.

The landlord submitted that the carpet was beyond cleaning and needed to be replaced; however, as of the day of the hearing, the carpet had not yet been replaced.

The landlord also submitted that there was pet damage and smoking in the rental unit. In response to my question, about the age of certain items, the landlord said the pantry door was brand new, the refrigerator was about 7 years old, the sink plug was 20 years old, the glass in the oven door was 8-10 years old, and the carpet was 20 years old.

In response, the tenant said that he would accept responsibility for the holes in the basement wall, as a friend put the holes there; however, the tenant said that the rental unit was an old house and there were many problems with the fixtures already in the home.

The tenant denied committing the major damage the landlord accused him of, and said that most of the rental unit was in good shape when he left. The tenant further submitted that the condition of the rental unit was left reasonably clean, except for reasonable wear and tear.

The tenant agreed that he returned only one key.

Analysis

In a claim for damage or loss under the Act or tenancy agreement, the claiming party, the landlord in this case, has to prove, with a balance of probabilities, four different elements:

First, proof that the damage or loss exists, **second**, that the damage or loss occurred due to the actions or neglect of the respondent in violation of the Act or agreement, **third**, verification of the actual loss or damage claimed and **fourth**, proof that the party took reasonable measures to mitigate their loss.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails.

Cleaning-

As to the landlord's claim for cleaning, in reviewing the photographic evidence and the invoice, I accept that the tenant failed to leave the rental unit reasonably clean as is his requirement under section 37(2) of the Act. I, however, find 52 hours as claimed by the landlord to clean the rental unit to be excessive.

I find a more reasonable amount considering the state of the rental unit in the photographic depiction to be 25 hours as the tenant was entitled to reasonable wear and tear for the everyday use of the home during the 2 and ½ year tenancy.

I therefore approve the landlord's claim for cleaning in the amount of \$750 (25 hours x \$30 per hour).

Repairs to damage and material-

I find the landlord's evidence for his claim for repairs to be less clear or compelling. For instance, the invoice provided by the landlord shows materials for \$328.13, and labour for \$1500. The invoice was from the same company providing the cleaning for the rental unit; however, there was no breakdown of what item was repaired or the time spent on the repair of each item. The landlord also was not clear as to whether the receipts he provided were included with the charge for materials for repair on the invoice from the repairing company. I therefore find this evidence to be insufficient to establish an entitlement for the full amount.

I, however, find that the landlord is entitled to compensation for the carpet cleaning, as the tenant confirmed that he had not cleaned the carpet, in the amount of \$336.

I also find that the landlord is entitled to compensation for a lock change, as the tenant failed to return all keys, in the amount of \$73.50.

I accept that the tenant was responsible for the broken oven door, and I therefore approve the landlord's claim for \$123.22, for parts and labour.

I also find that the landlord is entitled to compensation for drywall repair, due to the tenant agreeing that there was damage to the drywall; however, as there was no specific charge for drywall repair listed in the landlord's evidence, I find a reasonable amount to be \$300.

Due to the above, I find the landlord is entitled to monetary compensation for repairs and materials in the amount of \$336 for carpet cleaning, \$73.50 for a lock change, \$123.22, for parts and labour for the broken oven door, and \$300 for drywall repair, in the total amount of \$832.72.

I have not granted the landlord compensation for sink stoppers and door stoppers, as there was no proof of the age of the items. I also have not granted the landlord monetary compensation for light bulbs, as, due to Residential Tenancy Branch Policy Guideline 1, I find the tenant is responsible for replacing the light bulbs during the tenancy; however, I can find no provision that the tenant is responsible for providing new light bulbs for the next tenancy.

Carpet replacement-

I dismiss the landlord's claim for carpet replacement as the carpet has not yet been replaced and therefore the landlord has not met the third step of his burden of proof. I further find that the carpet had been fully depreciated as the useful life of a carpet pursuant to Residential Tenancy Branch Policy Guideline 40 is 10 years.

I grant the landlord recovery of the filing fee of \$100.

Due to the above, I find the landlord is entitled to a total monetary award of \$1682.72, comprised of cleaning of \$750, repair and materials for \$832.72, and the filing fee of \$100.

Conclusion

The landlord's application for monetary compensation is granted in part.

At the landlord's request, I direct him to retain the tenant's security deposit of \$750 in partial satisfaction of his monetary award of \$1682.72 and I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due in the amount of \$932.72, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The tenant is advised that costs of such enforcement are recoverable from 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* and is being mailed to both the applicant and the respondent.

Dated: September 04, 2013

Residential Tenancy Branch

