



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNDC, MNSD and FF

Introduction

The hearing was convened on the landlords' application of May 15, 2013 seeking a monetary award for damage to the rental unit, cleaning cost, loss of rent, 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, the tenants did not call in to the number provided to enable their participation in the telephone conference call hearing. Therefore, it proceeded in their absence.

Both the landlord and his agent attended the hearing and are referred to collectively throughout this decision as "the landlord."

Issue(s) to be Decided

This application now requires a decision on whether the landlord is entitled to a monetary award for the claims submitted.

Claims for damage to the rental unit require that several factors be taken into account: whether the damages are proven and attributable to the tenants, normal wear and tear and depreciation, the extent which amounts claimed are reasonable and reference to move-in and move-out condition inspection reports. Claims for damage or loss require that the claimant do whatever is reasonable to minimize the loss

Background and Evidence and Analysis

This tenancy began on February 1, 2013 and ended on April 27, 2013. Rent was \$1,400 per month and the landlords hold a security deposit of \$700.

During the hearing, the landlords gave evidence that the tenant had requested the landlord's attendance at the rental unit on April 19, 2013 as the garbage disposal was not working. That matter was resolved when a service provider found an "AA" battery lodged in the unit for which tenant accepted responsibility and made payment.

However, while in the rental unit, the landlord became concerned when he noted excessive water on surfaces and arranged with the tenants to do a full inspection that night. During that inspection, the landlord noted damage to two bathroom counters, apparently as a result of excessive amounts of water being left to stand, damage to the cabinets in one of the bathroom, staining on carpets and the need for cleaning throughout. The landlord advised the tenants of his concerns and the male tenant expressed his discomfort at proceeding with the tenancy.

The parties met at a local restaurant on April 22, 2013, where they reached a mutual agreement to end the tenancy and the tenants vacated on April 27, 2013.

The male tenant was present during the arranged move-out condition inspection, but the agent said he seemed preoccupied with the movers and he left before the inspection report form was completed.

The landlords submitted a list of claims, cross referenced to receipts, estimates and photographs, receipts and estimates into evidence in support of their claims on which I find as follows:

Loss of rent for May 2013 - \$1,400. The landlords gave evidence that because the rental unit was left in a state requiring extensive repairs and cleaning, that even though they began advertising immediately, they were unable to find new tenants to move in until July 1, 2013. On the basis of the photographic evidence and receipts for repairs, this claim is allowed in full.

Loss of rent for June 2013 - \$1,400. The landlords gave evidence that, because the tenants had not used bathroom or kitchen fans, they believe that lingering odours took longer to dissipate and contributed substantially to the delay in finding new tenants. As this tenancy ended by mutual agreement at the pleasure of both parties, and as professional services are available that might have dealt with odours, I find that the landlords voluntarily accepted the risk of the loss of rent for the second month. This claim is dismissed.

Carpet cleaning - \$223.60. On the basis of photographic evidence and receipt, this claim is allowed in full.

General cleaning - \$490. This claim is comprised of a receipt from a professional cleaner for \$150, and claims for nine hours at \$20 per hour for nine hours work by the landlord for \$180 and eight hours work by the agent for \$160.. On the basis of the photographs, I accept the evidence of the landlords that the work took more hours than claimed and the claim is allowed in full.

Carpenter for partial work completed - \$1,150.25. This claim includes labour for replacement of one bathroom counter top and repairs to the cabinet, baseboard and bi-fold doors, and other minor damage caused by the tenants. The landlord's gave evidence that they made an effort to minimize this cost and submitted one estimate for the work at \$3,900. They stated that the landlord had seen a large sprayer in the bathroom in question and it appeared that the tenants' children may have been using it as a toy with the resulting water damage to the counter and cabinets. On the basis of photographic evidence and receipt, this claim is allowed in full.

Bathroom countertop - \$129.37. The landlord picked up and paid for the counter top used in repair of the bathroom and this receipted claim is allowed in full.

Shower curtain - \$9.97. Due to the excess water spills left in the bathroom and the tenants' apparent lack of use of the exhaust fan, the landlord replaced the shower curtain due to mildew. This claim is supported by receipt and it is allowed.

Shelf liners - \$69.67. The landlords submitted receipts for \$33.87 and \$35.80 totalling \$69.67 to replace shelf liners on concern that they may have contributed lingering cooking odours. I find that the shelf liners were used for their intended purpose and that their replacement is a function of normal wear and tear. This claim is dismissed.

Refrigerator dents – (value - \$1,007.99). The landlords submitted photos of the stainless steel refrigerator showing four dents in the face surface and documentation showing a replacement value is \$899 plus tax. I find that the dents are not sufficiently large or prominent to warrant replacement of the fridge but I will allow \$150 for diminishment of its value beyond normal wear and tear.

Carpet replacement for 1st bedroom - \$682.75. The landlords' photos show a large yellow stain and burn mark in this carpet, and the carpet cleaner's invoice notes that the stains are permanent. The amount requested is based on replacement cost of \$369.60 for carpet and \$240 for installation costs plus tax. Standard depreciation tables place the useful life of mid-grade carpet at 10 year and the landlords gave evidence that the building and carpet were new in 2008. Therefore, I find the landlord is entitled to recover \$341.38, one half of the cost of replacement, from the tenants.

Counter top replacement for the 2nd bathroom - \$1,000. This is the larger of the two bathroom countertops. The landlords stated that it suffered similar damage to the other but has not been replaced as yet as available funds were used for the more pressing repairs and cleaning. Photographic evidence shows some buckling of the laminate and separation around the sink. The landlord stated that he had lived in the rental unit himself prior to the subject tenancy and it was as new when he left it. As the work has not yet been performed and as there is some possibility a material or installation defect contributed to the rapid deterioration in only three months of family use, I must grant some benefit of the doubt to the tenants. I allow \$200 on this claim for diminishment of value.

Filing fee - \$100. As the application has substantially succeeded on its merits, I find that the landlord is entitled to recover the filing fee for this proceeding from the tenants.

Security deposit – (\$700). As authorized by section 72 of the *Act*, I find that the landlord is entitled to retain the security deposit in set off against the balance owed.

Thus, I find that the landlord is entitled to a Monetary Order, calculated as follows:

Loss of rent for May 2013	\$1,400.00
Carpet cleaning	223.60
General cleaning	490.00
Carpenter for partial work completed	1,150.25
Bathroom countertop	129.37
Shower curtain	9.97
Refrigerator dents	150.00
Carpet replacement for 1 st bedroom	341.38
Counter top replacement for the 2 nd bathroom	200.00
Filing fee	100.00
Sub total	\$4,194.57
Less retained security deposit (No interest due)	- 700.00
TOTAL	\$3,494.57

Conclusion

In addition to authorization to retain the tenants' security deposit in set off against the balance owed, the landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia, for **\$3,494.57** 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: August 14, 2013

Residential Tenancy Branch

