



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT LP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNR, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application requesting compensation for unpaid rent, to retain the security deposit and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

The agent for the landlord provided affirmed testimony that on June 10, 2013 copies of the Application for Dispute Resolution and Notice of Hearing were sent to each tenant, to the written forwarding address given at the end of the tenancy. A Canada Post tracking number and receipt was provided as evidence of service to each tenant.

These documents are deemed to have been served in accordance with section 89 of the *Act*; however neither tenant appeared at the hearing.

Preliminary Matters

The details of dispute section of the application reflected a claim for damage to the unit; not unpaid rent.

Issue(s) to be Decided

Is the landlord entitled to compensation in the sum of \$215.00 for damage and cleaning costs?

May the landlord retain a portion of the \$425.00 deposit in satisfaction of the claim?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy agreement supplied as evidence indicated that the tenancy commenced on April 1, 2010. The tenancy ended in accordance with the Act, on May 31, 2013.

A copy of the move-in and move-out inspection report was supplied as evidence. The tenants did not sign at the end of the tenancy, agreeing to any deduction from the security deposit.

The landlord received the forwarding address on May 31, 2013 and submitted a claim against the deposit on June 7, 2013.

The landlord has claimed the cost of a new door (\$125.00) plus 2 hours of cleaning at \$45.00 per hour.

A photograph of the bedroom door showed that the door was off the hinges and had large holes where the hinges should be installed. The landlord thought the door was possibly original, dating to the 1970's. The condition inspection report at the start of the tenancy did not indicate any problems with the door.

A photograph of the oven showed some small areas that were marked. The picture of the bathroom tile showed the need for some cleaning between the tiles and a small amount of black mold growth along the caulking.

A 3rd party completed the cleaning; an invoice was not supplied.

The landlord provided a copy of a print-out that showed a cost in the sum of \$125.00 for a hollow-core door.

Analysis

When making a claim for damages under a tenancy agreement or the Act, the party making the allegations has the burden of proving their claim. Proving a claim in damages requires that it be established that the damage or loss occurred, that the damage or loss was a result of a breach of the tenancy agreement or Act, verification of the actual loss or damage claimed and proof that the party took all reasonable measures to mitigate their loss.

In the absence of evidence verifying the sum paid for cleaning I find that the claim is dismissed. Further, from the photographs before me it appeared that the tile and bathtub grout was aged and could just as likely have looked poor as the result of age. It would be reasonable that caulking be replaced at least once every 5 years and there was no evidence before me that the caulking and grout were not original or very aged.

The photograph before me showed what I find to be a reasonably cleaned oven. A tenant must leave a rental unit reasonably clean at the end of a tenancy; and I find from the few photographs and the inspection report that the unit was left reasonably clean.

The door appeared to be aged and had large holes where the hinges would be placed; leaving the impression that this door had been hung and re-hung multiple times, to the point that no wood was left in which to place the hinge screws. I find it likely that the door was beyond the suggested lifespan of twenty years and that the claim to replace the door is dismissed. There was no evidence before me to show that it was anything but age that caused the door to all from the hinges.

Residential Tenancy Branch policy suggests that when a landlord applies to retain the deposit, any balance should be ordered returned to the tenant; I find this to be a reasonable stance. Therefore, as the landlord's claim is dismissed I find that the tenants are entitled to return of the \$425.00 security deposit.

Based on these determinations I grant the tenants a monetary Order in the sum of \$425.00. In the event that the landlord does not comply with this Order, it may be served on the landlord, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion

The landlord's application is dismissed.

The landlord is ordered to return the deposit to the tenants; a monetary Order has been issued.

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: September 16, 2013

Residential Tenancy Branch

