



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Pemberton Holmes Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by two agents for the landlord and the tenant.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for the cost of cleaning, replacement keys and garbage removal and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord provided a copy of a tenancy agreement for a 6 month fixed term tenancy beginning on December 1, 2009 that converted to a month to month tenancy on June 1, 2010 for a monthly rent of \$995.00 due on the 1st of each month. The tenancy ended when the tenant vacated the property on or before February 28, 2013.

The landlord testified prior to move out the tenant was provided with an instruction sheet on how to prepare the rental unit for the end of the tenancy, with specific instructions on cleaning requirements. The landlord submitted into evidence a copy of a move out Condition Inspection Report and several photographs of the condition of the rental unit at the end of the tenancy.

The landlord's photographic evidence shows extensive dirt, ashes, hair in every room of the rental unit on baseboards, flooring and in the bathtub. The photos also show dust in the bathroom fan; grease on the front and sides of the stove and cobwebs on a curtain rod.

The landlord submits that they do not seek any compensation for repairs only for cleaning of the rental unit and they seek \$300.00 for 10 hours worth of cleaning at \$30.00 per hour.

The tenant submits that he should not be held responsible for the cleaning because some of the cleaning required resulted from the condition of the rental unit at the start of the tenancy. For example, the tenant submits that it likely took the landlord's cleaner longer to clean the cupboards because of the condition of the paint on the cupboards from prior to the start of his tenancy.

The tenant submits that the *Act* requires the unit be reasonably cleaned and that Residential Tenancy Policy Guideline #1 stipulates that the tenant is not responsible for cleaning to bring the premises to a higher standard than that set out in the *Act*. The landlord submits that he believes that the rental unit was cleaned to a reasonable standard.

The landlord submits that the tenant failed to leave any keys and as a result the landlord had to rekey the rental unit lock and the mailbox lock and have new keys cut for the rental unit; the mailbox lock; the entry. The landlord submitted that on their instruction sheet they gave to the tenant it advised him of the charges for keys that were not returned and that the actually cost they have submitted of \$112.84 (receipt provided) is less than what they would have charged had they charged him according to their fee schedule.

The landlord explained that their standard policy is not to change locks when a vacating tenant returns all access keys but when they fail to do so the landlord will change the locks and charge the tenants in accordance with the instruction sheet they provided to the tenant.

The tenant agrees that he did not return the keys but that he should only have to pay for having keys cut for the rental unit and for the front door. The tenant submits that it is the landlord's obligation to change the locks and to pay for the call out charge at the end of a tenancy.

The landlord provided a photograph of items left behind by the tenant that were placed outside of the building in the garbage/recycling area of the property. The landlord submits that to have the items removed it cost the landlord \$149.80 (receipt provided).

The tenant submits that these items left behind were actually abandoned personal property worth less than \$500.00 and that the landlord was at liberty to get rid of them however they saw fit. The tenant submits he is not responsible for the choice the landlord has made to deal with the items.

The tenant also submits that it appears to be a tradition in the city for people to leave items in these areas for the use of passersby who may need some of the items and so he was just following this tradition. The tenant testified that while many of the exiting

tenants leave items behind in this way when they move out the landlord had never notified tenants that they cannot do this.

Analysis

Section 37 of the *Act* requires a tenant who is vacating a rental unit to leave the unit reasonably clean, and undamaged except for reasonable wear and tear, and give the landlord all keys or other means of access that are in the possession and control of the tenant and that allow access to and within the residential property.

I accept that the landlord does not have a move in condition inspection report and as such has no evidence of the condition of the rental unit at the start of the tenancy. However, I accept that the landlord is not claiming compensation for damage to the rental unit but rather because the tenant failed to leave the unit reasonably clean.

I find, based on the move out condition inspection report and the photographic evidence that the tenant left the rental unit in an extremely filthy condition. I find the tenant came nowhere near leaving the rental unit reasonably clean. As such, I find the tenant has failed to comply with the requirement of Section 37 and as a result the landlord has suffered a loss.

I accept the landlord has established the value of this loss to be \$300.00. I find that it is reasonable that it would have taken the landlord's cleaning at least 10 hours to clean the unit, particularly based on the photographic evidence.

In relation to the landlord's claim for rekeying and replacement keys for rental unit keys and locks; the front entrance keys; and mail box keys and locks I find that the tenant again failed to comply with Section 37 and return all the keys. I also find that as a result of this failure to comply the landlord suffered a loss.

As to the value of that loss, I accept that it is a prudent practice of the landlord to have all appropriate locks rekeyed as well as the production of new keys when a tenant fails to return any of the keys at the end of the tenancy. As such, I find all of the costs attributed to the locksmith related to this unit are the responsibility of the tenant, in the amount of \$112.84.

In regard to the portion of the landlord's Application seeking compensation for hauling charges, I find that despite the tenant's assertion that the items left behind were abandoned personal property and not garbage that the classification of what the items are is irrelevant. There is nothing in either the *Act* or the regulation that precludes a landlord from being compensated from the tenant for the removal of either garbage or abandoned personal property.

Further, I find that the action of the tenant removing the items from the rental unit itself and placing them in the area of the residential property that is used for garbage and recycling contradicts the tenant's claim that they were abandoned personal property. I find that at the time of the end of the tenancy the tenant himself was regarding the items as garbage and/or recycling and that he cannot now claim that he simply abandoned them at the rental unit.

Therefore, I find the tenant is responsible for the costs of having the items removed from the property in the amount of \$149.80 as claimed by the landlord.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$612.64** comprised of \$300.00 cleaning; \$112.84 keys and rekeying; \$149.80 hauling charges and the \$50.00 fee paid by the landlord for this application.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: September 25, 2013

Residential Tenancy Branch

