



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MDN, MNR, MNSD, MNDC, FF, SS

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested compensation for damage to the rental unit, unpaid rent, to retain the security deposit, compensation for damage or loss under the Act and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that on November 8, 2013 each tenant was served copies of the Application for Dispute Resolution and Notice of Hearing and evidence to the tenant's current residential address. The landlord was able to locate the tenant's new place of residence and went to the building, to ensure that the tenants did reside there. The landlord then sent each tenant the hearing packages. A copy of each receipt and tracking number was provided as evidence.

The landlord supplied a copy of Canada Post tracking details, printed from the Canada Post web site. The details indicated that the female tenant signed, accepting each of the hearing packages on November 13, 2013.

Section 71(2) of the Act provides:

(2) In addition to the authority under subsection (1), the director may make any of the following orders:

- (a) that a document must be served in a manner the director considers necessary, despite sections 88 [how to give or serve documents generally] and 89 [special rules for certain documents];*
- (b) that a document has been sufficiently served for the purposes of this Act on a date the director specifies;*
- (c) that a document not served in accordance with section 88 or 89 is sufficiently given or served for purposes of this Act.*

Therefore, as the female tenant signed, accepting the registered mail on behalf of the male tenant, who resides at the same address as the female tenant, I find that the male tenant has been sufficiently served with Notice of this hearing and the evidence submission.

These documents are deemed to have been served in accordance with section 89 and 90 of the Act to the female tenant; however neither tenant attended the hearing.

Preliminary Matters

The landlord has claimed costs related to hearing preparation. An applicant can only recover damages for the direct costs of breaches of the Act or the tenancy agreement in claims under Section 67 of the Act, but “costs” incurred with respect to filing a claim for damages are limited to the cost of the filing fee, which is specifically allowed under Section 72 of the Residential Tenancy Act. As a result, the non-direct cost of a breach is denied and the landlord is at liberty to write any off as a business expense.

The landlord has claimed a \$250.00 filing fee; however, only the filing fee paid, in the sum of \$100.00, will be considered.

The landlord submitted a digital copy of the photographs; that evidence was not reviewed as paper copies were also supplied.

An Order for substitute service was not required.

Issue(s) to be Decided

Is the landlord entitled to compensation for unpaid rent and loss of rent revenue for January and February, 2012?

Is the landlord entitled to compensation for damage to the rental unit?

May the landlord retain the security deposit?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy commenced on August 1, 2007, rent was \$1,000.00 per month, due on the 1st day of each month. A security deposit in the sum of \$500.00 was paid. The tenancy agreement addendum required the tenants to professionally clean the carpets.

The home was built in 2002 and had all of the original fixtures.

A move-in condition inspection report was completed on August 8, 2007.

On January 2, 2012 the landlord issued a 10 day Notice to end tenancy for unpaid January 2012 rent. The Notice had an effective date of January 12, 2012.

Copies of the above documents were supplied as evidence.

The landlord supplied a copy of an employment assistance cheque issued for December 2011 rent, as evidence rent had increased to \$1,100.00 per month.

The landlord went to the rental unit on the effective date of the Notice ending tenancy, January 12, 2012; there were a lot of the tenant's belongings remaining in the home. The landlord determined that the value of the property was under \$500.00 and on January 15, 2012 he took possession of the rental unit.

On January 15, 2012 the landlord posted a notice to the door of the rental unit, providing the tenants with 2 dates to complete a move-out inspection; the landlord asked the tenants to contact him by telephone. The landlord did not hear from the tenants and they did not attend at the rental unit on either date.

A forwarding address was not provided by the tenants.

The landlord has made the following claim:

January 2012 rent	\$1,100.00
February 2012 rent revenue	1,100.00
2 broken stair hand rails	21.81
Labour	25.00
3 broken bi-fold doors	218.23
Mailbox	44.79
Chandelier light	212.78
6 interior lights	268.73
Entrance door locks	200.48
Outdoor light	44.80
Toilet paper holder	9.40
Fridge	699.99
Toilet seat	29.61
Bathroom floor	85.23
Towel bar	15.67
3 clothes hanger bars	17.51
Broken downspout	25.00
Flooring	3,111.27
Blinds	122.35
Light switches	21.81
Outside door and 2 inside doors	629.41
Bathroom door	107.51
Smoke alarm	29.70
Repair holes in wall	728.00
Cleaning	2,519.64
Paint repaired walls	1,737.12
Paint supplies	452.85
Garbage removal/fees	230.16
Fuel to remove garbage	95.42
6 screens	283.00
TOTAL	\$14,187.27

The landlord had his agent, C.D., complete the move-out inspection report on January 26, 2012. The report supplied as evidence indicated a number of small deficiencies at the start of the tenancy:

- 4 holes in the entry lino;

- 4 kitchen drawers damaged; a dent in the dishwasher;
- a mark on the bathroom door; and
- some stains in 2 bedroom carpets.

The move-in portion of the report indicated that new locks and a new deadbolt had been installed.

The move-out condition inspection report included multiple references to damage; including:

- Nail damage to entry drywall, light fixture broken, light switch broken, door damaged/ruined, carpet stained with feces, linoleum damaged;
- The kitchen ceiling was stained from food and smoke; the walls had extensive holes, marks, scratches, linoleum damaged, trim missing, broken door fronts, stove drawer broken, oven", taps and sink "disgusting, filthy; mouldy food in fridge, broken shelves in fridge and freezer, pantry damaged, missing light fixture cover, blinds damaged, screen missing, electric wall plates cracked";
- Multiple screw holes in living room wall, holes in the wall, carpet ruined – full of stains from feces, broken closet door, fixture missing glass parts, screen removed, blinds removed, electrical outlets damage and cracked;
- The dining room had holes in the walls, the carpet was damaged and stained with food and feces, 4 pieces of glass missing from light fixture, screens missing;
- The upstairs bathroom toilet seat and linoleum needing replacement;
- The master bedroom had lots of wall damage/holes, the carpet was stained with oil, screens missing;
- The middle bedroom had holes in the walls, crayons had been used on the walls, the carpet was extensively stained, the closet shelving needed repair, the screen was missing;
- The 3rd bedroom had holes in the walls, a hole in a door, a broken light fixture;
- The basement had multiple holes in the walls, stairs and scratches on the linoleum, the door to the water heater was broken;
- The storage area was covered in cat feces and had holes in the walls;
- The utility room was dirty, garbage was left in the parking area, the concrete was stained with oil; and
- The exterior of the home was full of garbage everywhere; a broken eaves trough and damaged mailbox.

The landlord said that the 2 hand rails on the stair ways were broken; photos of the broken rail brackets were supplied as evidence. The landlord made this repair himself.

Three bi-fold doors had to be replaced. The mail box was removed from the front of the home; a photograph showed where the box had been installed. The inspection report indicated the mailbox was damaged.

The light fixture in the dining room had bevelled glass panels; 4 of which were missing. The landlord attempted to replace the panels but was told by the glazier that replacement of bevelled glass would cost more than a reasonably priced new fixture.

The landlord provided photographs of 6 ceiling light fixtures that had the glass covers removed; they were all missing. Purchase of new glass covers was no cheaper than buying replacement fixtures.

The keys were not returned. The landlord spoke to a locksmith who would charge \$130.00 for a visit to the home and additional fees for re-keying the 2 exterior doors. The landlord chose to replace the 2 lock sets; one of which was in an exterior door that was damaged and had to be replaced.

A photograph of the front entry of the home showed the exterior light fixture missing the glass cover; a new fixture was purchased.

A photograph of the fridge showed damage that had occurred; the outer door panel and handle was broken, an inner door panel and the freezer handle were broken. The landlord supplied a hand-written quote in the sum of \$612.96 for repair costs, issued by an appliance repair company. The landlord chose to replace the fridge; although it did still operate. The repair costs were very close to the sum paid for a new fridge.

Photographs showed that the toilet seat bolt was broken, the towel bar was missing and one half of the toilet roll holder was missing. These items were replaced.

The landlord could not eliminate the smell of urine from the bathroom floor; there was also a large stain which the landlord could not identify. The linoleum was replaced.

Photographs showed that the wooden rails in the closets were broken. The landlord purchased some doweling and cut it to the correct lengths.

A photograph showed a crushed downspout on the exterior of the house. The landlord believes the tenants must have driven into the downspout. The landlord has requested compensation for his own labour for this repair.

The landlord provided photographs taken of multiple areas of the carpeting which showed the carpet had been severely stained. On February 1, 2012 the landlord obtained a written report from a carpet company which indicated the carpet was extremely over-soiled, that there was smell of cat urine and that use of a moisture meter showed the presence of alkaline substance. The carpets were determined to be so badly stained and soiled that total replacement was recommended.

The landlord supplied a copy of a Home Depot estimate for carpet replacement, in the sum of \$4,639.10. The landlord decided to replace the carpet with laminate, which was cheaper than the carpeting quote. A January 1, 2012 invoice verifying payment in the sum of \$3,088.98 was supplied as evidence of the laminate installation.

Photographs showed that blinds had been removed from the windows; some windows had sheets placed over them. The landlord supplied an invoice verifying payment for 6 blinds.

Multiple electrical face plates were broken and replaced.

Photographs of the exterior door indicated that the front door had been kicked in; it was a metal door, which was dented. The frame was broken and the deadbolt portion of the frame was destroyed. The landlord said that this contributed to him replacing the locks, vs. rekeying. A 2nd, interior hollow bathroom door had been broken and was replaced.

Two smoke alarms had been wired into the home; one was missing at the end of the tenancy.

The landlord provided a February 3, 2012 invoice in the sum of \$728.00 for drywall finishing. Photographs of multiple holes made in the walls, were provided as evidence.

The landlord's agent/cleaner issued a May 5, 2012 invoice in the sum of \$4,256.78 for "cleaning trashed house – 98 hours plus 70.5 hours for painting of all repaired walls." An hourly rate of \$22.00 was charged. The invoice indicated that there was extensive damage to the home, walls punched in; carpets stained with oil and grease, burn holes, littered with cigarettes; extensive damage to all appliances; front door and 3 interior doors kicked in; window screen broken and missing.

On March 14, 2012 the landlord used a cheque for the cleaning and painting; a copy of this cheque was supplied as evidence.

Receipts verifying the amounts claimed for paint and supplies, garbage tipping fees and fuel were supplied as evidence. The landlord said that 6 pick-up truck loads of garbage had to be hauled to the landfill.

The landlord inadvertently omitted a copy of the invoice for screen replacement.

Analysis

The tenants vacated as the result of a 10 day notice ending tenancy for unpaid rent and did not pay the rent for that month, January 2012. Therefore, I find the landlord is entitled to compensation in the sum of \$1,100.00 for January 2012 rent.

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.

From the evidence before me I find, in the absence of the tenants who were served with notice of this hearing, that the landlord's claim has merit. From the photographic evidence and supporting verification of costs incurred I find that the landlord is entitled to compensation for all items claimed. I have adjusted some costs, to take into account reasonable depreciation. In other cases I have determined that the useful lifespan of items, even though beyond that suggested by Residential Tenancy Branch policy, would have continued beyond the end of this tenancy.

I took into account the move-in condition inspection report which indicated the unit was in good condition with very few deficiencies at the start of the tenancy. I also considered wear and tear which is expected to occur during an almost 5 year tenancy. However, from the evidence before me I find that the tenants left the unit in a state that was significantly damaged as the result of the actions of the tenants, which essentially destroyed many fixtures that could have remained in use for a period of time.

I also considered the need for painting, which is suggested once every 4 years. As the unit had to be completely painted as the result of multiple holes made in the walls, I have awarded the landlord compensation for painting costs. Rather than a single coat

of paint, the landlord was required to cover dry wall work needed as a result of the negligence of the tenants.

I have considered the age of all fixtures; which was just under 10 years at the time the tenancy ended.

I have considered the age of the fridge, combined with the extent of damage and cost of repair vs. replacement. I find that replacement was reasonable and have adjusted the compensation, taking into account the cost of repair and depreciation.

Given the need for such extensive rehabilitation of the unit, such as drywall repair, painting, cleaning, removal of garbage and replacement of fixtures; I find that the landlord is entitled to loss of February 2012 rent revenue in the sum of \$1,100.00.

Therefore I find the landlord is entitled to the following compensation:

	Claimed	Suggested lifespan (years)	Depreciation	Accepted
January 2012 rent	\$1,100.00		na	\$1,000.00
February 2012 rent revenue	1,100.00		na	1,100.00
2 broken stair hand rails	21.81		na	21.81
Labour	25.00		na	25.00
1 broken bi-fold door	218.23	20	None, doors were in good shape with no holes	218.23
Mailbox	44.79	15	10 years	14.93
Chandelier light	212.78		0	212.78
6 interior lights	268.73		0	268.73
Entrance door locks	200.48	20	100.24	100.24
Outdoor light	44.80		0	44.80
Toilet paper holder	9.40		0	9.40
Fridge	699.99	15	466.66	233.33
Toilet seat	29.61		0	29.61
Bathroom floor	85.23	10	68.18	17.05
Towel bar	15.67		0	15.67
3 clothes hanger bars	17.51		0	17.51
Broken	25.00		0	25.00

downspout				
Flooring	3,111.27	10	2,489.05	622.22
Blinds	122.35	10	97.88	24.47
Light switches	21.81		0	21.81
Outside door and 2 inside doors	629.41	20	None, doors were in good shape	629.41
Bathroom door	107.51	20	Had mark on top of door at start 15.00	92.51
Smoke alarm	29.70	15	19.80	9.90
Repair holes in wall	728.00			728.00
Cleaning	2,519.64			2,519.64
Paint repaired walls	1,737.12	4	868.56	868.56
Paint supplies	452.85		226.43	226.42
Garbage removal/fees	230.16			230.16
Fuel to remove garbage	95.42			95.42
6 screens	283.00		In absence of verification	50.00
TOTAL	\$14,187.27			\$9,472.61

I find that the landlord's application has merit and I find that the landlord is entitled to recover the \$100.00 filing fee from the tenants for the cost of this Application for Dispute Resolution.

I find that the landlord is entitled to retain the tenant's \$500.00 security deposit plus \$10.19 interest, in partial satisfaction of the monetary claim.

The balance of the claim is dismissed.

Based on these determinations I grant the landlord a monetary Order for the balance of \$9,062.42. In the event that the tenants do not comply with this Order, it may be served on the tenants, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion

The landlord is entitled to compensation for unpaid rent, loss of rent revenue and damage to the rental unit in the sum of \$9,472.61.

The balance of the monetary claim is dismissed.

The landlord may retain the security deposit.

The landlord is entitled to filing fee costs.

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: February 25, 2014

Residential Tenancy Branch

