



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND FF

Introduction

This hearing was convened as a result of the landlords' application for dispute resolution seeking remedy under the *Residential Tenancy Act* (the "Act"). The landlords applied for a monetary order for damage to the unit, site or property, and to recover the filing fee.

The tenants, landlord "HG" and the sister of the landlord appeared at the teleconference hearing and gave affirmed testimony. During the hearing both parties were given the opportunity to provide their evidence orally and respond to the testimony of the other party. I have reviewed all evidence before me that was presented during the hearing and that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Both parties confirmed that they received evidence from the other party prior to the hearing and that they had the opportunity to review that evidence prior to the hearing. I find the parties were served in accordance with the *Act*.

Issue to be Decided

- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A period, month to month tenancy agreement began on November 1, 2012 and reverted to a month to month tenancy after May 31, 2013. Monthly rent in the amount of \$2,650.00 was due on the first day of each month. The parties agreed that the tenants vacated the rental unit on August 30, 2013. In a previous decision dated November 1, 2013, the landlords were

ordered to pay the tenants double the security deposit. As a result, the security deposit in relation to this tenancy has already been dealt with under the *Act* and will not be considered in this Decision.

The landlords have claimed \$828.60 which in total actually is \$828.80 as follows:

Item 1. Cleaning costs (\$60.00 X 6 hours) comprised of 2 people at \$30.00 per hour plus tax	\$403.20
Item 2. Laminate repair	\$313.60
Item 3. Materials for repair	\$112.00
TOTAL	\$828.80

The landlord stated that a condition inspection report was completed “during the tenancy” on June 16, 2013, and confirmed that an outgoing condition inspection report was not completed at the end of the tenancy. The landlord later changed their testimony by stating that a condition inspection report was completed at the start of the tenancy; however was unable to provide the date the condition inspection report was completed or a copy of the report. The tenants stated that there was no incoming condition inspection report at the start of the tenancy and that there was no outgoing condition inspection report at the end of the tenancy, only a condition inspection report during the tenancy which was seven months after the tenancy began.

Regarding item #1, the landlords have claimed \$403.20 for cleaning of the rental unit; however have provided no photos of the rental unit to support that cleaning was required after the tenants vacated the rental unit. The tenants claimed that they left the rental unit in reasonably clean condition at the end of the tenancy. The tenants denied that they left the rental unit dirty as claimed by the landlords. The landlords submitted what appears to be a typed document that says “Bill” and is dated 15-Sep-13 and reads in part that \$403.20 was paid by landlord “HG” for “6 hours cleaning two people for two people, the price includes tax and the cleaning products.” There is no tax information listed on the document, the price is not broken down to include what portion is tax, and is not on letterhead. In addition, the document does not indicate what amount per person and per hour is being charged for cleaning and what was cleaned, only the total including tax is listed.

Regarding item #2, the landlords have claimed \$313.60 to repair laminate flooring that was allegedly damaged by the tenants. The tenants denied damaging the flooring. The landlord referred to an invoice submitted in evidence that reads in part:

“ ...

Description	Price	Unit	Amount
8 hrs	35	8	313.60
Metrial	112		112
	TOTAL		425.60...”

[reproduced as written]

At the bottom of the document which does not include a business name or tax information, there is writing that reads “Payment rec in ful Thanks”.

Regarding item #3, the landlord stated that they are seeking \$112.00 for three window handles and laminate pieces. The tenants did not agree with this portion of the landlords’ claim.

Analysis

Based on the documentary evidence, the oral testimony of the parties, and on the balance of probabilities, I find the following.

Test for damages or loss

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in sections 7 and 67 of the *Act*. Accordingly, an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

In this instance, the burden of proof is on the landlords to prove the existence of the damage/loss and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the tenants. Once that has been established, the

landlords must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the landlords did everything possible to minimize the damage or losses that were incurred.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

Item #1 – The landlords have claimed \$403.20 for cleaning of the rental unit; however failed to provide supporting evidence such as photos of a dirty rental unit or an outgoing condition inspection report. The tenants denied that they left the rental unit dirty as claimed by the landlords. As the landlords failed to complete an outgoing condition inspection report at the end of the tenancy, I find the landlords have provided insufficient evidence to prove this portion of their claim. I afford the document submitted by the landlords alleged to be a cleaning bill of \$403.20 little weight as the document does not include a business name, appears to be a typed document, does not indicate what amount of tax was charged or a GST number for example, does not include the price per hour, per cleaner, and what was cleaned. Given the above, this portion of the landlords' claim is **dismissed, without leave to reapply**, due to insufficient evidence.

Items #2 and #3 – The landlords have claimed \$313.60 to repair laminate flooring that was allegedly damaged by the tenants, and \$112.00 in materials. The tenants denied damaging the flooring or the rental unit as claimed by the landlords. As the landlords failed to complete an outgoing condition inspection report at the end of the tenancy, I find the landlords have provided insufficient evidence to prove these portions of their claim. I afford the document submitted by the landlords alleged to be an invoice for \$425.60 little weight as the document does not include a business name, contains multiple spelling errors, does not describe the work performed or the materials required, and does not include what amount of tax was charged, if any. Given the above, these portions of the landlords' claim are **dismissed, without leave to reapply**, due to insufficient evidence.

I caution the landlords to comply with sections 23 and 35 of the *Act* in the future, which required the landlords to complete an incoming condition inspection report at the start of the tenancy, and an outgoing condition inspection report at the end of the tenancy.

As the landlords' claim did not have merit, I do not grant the landlords the recovery of the filing fee.

Conclusion

The landlords' claim did not have merit and has been dismissed in full, without leave to reapply, due to insufficient evidence.

For the benefit of both parties, I am including a copy of *A Guide for Landlords and Tenants in British Columbia* with my Decision.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: March 6, 2014

Residential Tenancy Branch

