



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Capilano Property Management Services Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MND, MNDC, FF

Introduction

The Tenant applied on January 3, 2014 for:

1. An Order for the return of the security deposit – Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord applied on November 14, 2013 for:

1. A Monetary Order for damage to the unit – Section 67;
2. A Monetary Order for compensation – Section 67;
3. An Order to retain the security deposit – Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord were each given full opportunity to be heard, to present evidence and to make submissions under oath.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Is the Tenant entitled to return of the security deposit?

Are the Parties entitled to recovery of their respective filing fees?

Background and Evidence

The tenancy started on December 1, 2007 and ended on October 31, 2013. At the outset of the tenancy agreement the Landlord collected \$500.00 as a security deposit.

The Parties mutually conducted both a move-in and move-out inspection and the Landlord provided a copy of the reports as evidence.

The Landlord states that the Tenant broke a window in the unit and claims \$128.61 for its replacement cost. The Tenant states that the windows are as old as the unit, 46 years old, are thin and broke when the Tenant's daughter closed it. The Tenant states that at the time the building manager was informed and this person told the Tenant not to worry about it as it would be fixed by the Landlord. The Tenant states that the window was never repaired and at the move-out inspection the Tenant was again told that he would not be responsible for its replacement cost. The Tenant states that this is noted on the move-out report.

The Landlord states that the windows are only 20 years old and that the building manager would not have known the cost to note it on the move-out report.

Analysis

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. The Residential Tenancy Branch Guideline on the useful life of building elements provides that the useful life of windows is 15 years. Given the Landlord's evidence that the windows are 20 years old, I find that the useful life of the window was finished. This evidence supports the Tenant's evidence that the window broke upon simply closing it. In these circumstances, I find that the window was broken by normal usage, is reasonable wear and tear and that the Tenant is therefore not responsible for its replacement cost. I therefore dismiss the Landlord's application and order the Landlord to return the security deposit of **\$500.00** plus interest of **\$8.14**. As the Tenant has been successful with its application, I find that the Tenant is also entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$558.14**.

Conclusion

The Landlord's application is dismissed. I grant the Tenant an order under Section 67 of the Act for **\$558.14**. If necessary, this order may be filed in the Small Claims Court and 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: March 03, 2014

Residential Tenancy Branch

