



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC HOUSING MANAGEMENT COMMISSION
and [tenant name suppressed to protect privacy]

Decision

Dispute Codes:

MND, FF

Introduction

This Dispute Resolution hearing was set to deal with an Application by the landlord seeking a monetary order for carpet cleaning and painting.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The participants had an opportunity to submit documentary evidence prior to this hearing, and the evidence has been reviewed. The parties were also permitted to present affirmed oral testimony and make submissions during the hearing. I have considered all of the evidence and testimony provided.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation under section 67 of the *Act* for damages or loss?

Background and Evidence

The landlord testified that the tenancy began January 1, 2012 and ended on July 31, 2013 with rent of \$575.00 per month. No security deposit was paid. The landlord submitted into evidence copies of photos, invoices and copies of the move-in and move-out condition inspection reports.

The landlord testified that the parties both participated in the move-out inspections. The landlord stated that deficiencies were pointed out to the tenant during the move out condition Inspection and noted on the form.

The landlord also testified that the carpets required shampooing and submitted a receipt for \$131.25, which is being claimed.

The landlord is also claiming a portion of the cost of repainting the unit. The landlord submitted photos of the basement area showing that the walls had been painted in with colourful hand-painted pictures and designs. The landlord stated that the painter's receipt indicates that the charge for the basement walls is \$642.00 plus tax.

The landlord testified that the unit was painted just prior to occupancy by the tenant and the tenancy ran for 19 months. Based on the average useful life of interior paint, gaged at 4 years in the Residential Tenancy Guidelines, the landlord calculated the tenant's prorated contribution, including tax as \$407.27, which is being claimed.

The tenant stated that they had cleaned the carpets during the tenancy with a rented machine. However, the tenant did not submit evidence to support this claim and the move-out condition inspection report did show that the carpets required cleaning.

The tenant also pointed out that the basement walls had only been painted with "finger paints" which could have been washed off. According to the tenant, during the move-out condition inspection she was assured that the cost would likely only be around \$200.00 to restore the walls.

Analysis

It is important to note that in a claim for damage or loss under the Act, the party claiming the damage or loss bears the burden of proof and the evidence furnished by the applicant must satisfy each component of the test below:

Test For Damage and Loss Claims

1. Proof that the damage or loss exists,
2. Proof that this damage or loss happened solely because of the actions or neglect of the Respondent in violation of the Act or agreement,
3. Verification of the actual amount required to compensate for the claimed loss or to rectify the damage, and
4. Proof that the claimant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage.

In this instance, the burden of proof is on the claimant, that being the landlord, to prove the existence of the damage/loss and that it stemmed directly from a violation of the agreement or a contravention of the Act on the part of the respondent.

In regard to the claim for the carpet cleaning costs and repainting, I find that Section 37 (2) of the Act states 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.

I find it was proven that the floors of the unit were not completely cleaned and that the tenant left the basement marred with paint. I find that the tenant was in violation of section 37 of the Act in this regard. I further find that the landlord established that they did genuinely incur the costs being claimed to have the carpet cleaned and to repaint the basement rooms.

Based on the evidence and the testimony, I find that the landlord is entitled to total compensation of \$588.52, comprised of \$131.25 for carpet cleaning, 407.27 for painting and the \$50.00 cost of this application.

Based on the testimony and evidence I grant the landlord a monetary order for \$588.52. This order must be served on the landlord and may be enforced in small claims court if necessary. The remainder of the landlord's application is dismissed without leave.

Conclusion

The landlord is successful in the monetary claim and is granted a monetary order for the cost of cleaning and painting.

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: April 23, 2014

Residential Tenancy Branch

