



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HOLLYBURN ESTATES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNDC, MNSD, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act"). The landlord applied for a monetary order for money owed or compensation for damage or loss and for alleged damage to the rental unit, for authority to retain the tenant's security deposit, and for recovery of the filing fee.

The landlord's agents (hereafter "landlord") attended the telephone conference call hearing; the tenant did not attend.

The landlord submitted evidence that they served the tenant with their Application for Dispute Resolution and Notice of Hearing by registered mail on February 18, 2014. The landlord supplied the registered mail receipts showing the tracking number. Upon further inquiry, the landlord submitted that the tenant provided her forwarding address in the written Notice of Intent to Vacate, signed by the tenant on December 30, 2013.

Based upon the submissions of the landlord, I find the tenant was served notice of this hearing in a manner complying with section 89(1) of the Residential Tenancy Act and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to an order for monetary compensation and to recover the filing fee?

Background and Evidence

The written tenancy agreement shows that this tenancy began on December 6, 2011, monthly rent was \$970, and that the tenant paid a security deposit of \$485 at the beginning of the tenancy. The evidence shows that the tenancy ended on or about January 31, 2014, when the tenant vacated the rental unit.

The landlord's original monetary claim of \$1237.56 was reduced by the landlord and they are currently requesting the amount of \$1041.56, comprised of the following:

Carpet cleaning	\$95.25
Drape replacement	\$246.40
Dirty oven	\$45
General cleaning	\$28.50
Missing light bulbs	\$33
Key FOB replacement	\$112
Lock change	\$67.50
Kitchen countertop replacement	\$364
Filing fee	\$50

The landlord's additional relevant documentary evidence included the move-in condition inspection report, the move-out condition inspection report, notices to the tenant for an opportunity for a final inspection, invoices for cleaning, drape replacement and repairs, documents referencing key and fob replacements, and photographs.

The landlord submitted that the tenant was served with their documentary evidence via registered mail, on May 8, 2014, and supplied the registered mail receipts showing the tracking number.

In support of their application, the landlord submitted that the parties agreed upon a date and time for the final inspection of the rental unit; however, the tenant failed to appear.

As to the cleaning for carpet, oven and general cleaning, the landlord submitted that the tenant failed to properly clean the rental unit, which required the landlord to provide further cleaning in order to ready the rental unit for the next tenant.

As to the drape replacement, the landlord submitted that the tenant removed the drapes as they were missing at the final inspection.

As to the kitchen countertop, the landlord submitted that the tenant damaged the item beyond repair, and that it was necessary to replace the countertop. In support of their claim, the landlord provided a photograph of the countertop, showing 4 deep holes.

As to the missing light bulbs, the landlord submitted that there were 6 missing bulbs from the bathroom, and that pursuant to the tenancy agreement, the tenant was responsible for replacing missing or burnt out bulbs.

As to the key FOB and key replacements, the landlord submitted that the tenant failed to return the key fob for the residential property, and the keys to the rental unit, requiring a replacement of both.

Analysis

In a claim for damage or loss under the Act, which falls in sections 7 and 67, or tenancy agreement, the claiming party, the landlord in this case, has to prove, with a balance of probabilities, four different elements:

First, proof that the damage or loss exists, **second**, that the damage or loss occurred due to the actions or neglect of the respondent in violation of the Act or agreement, **third**, verification of the actual loss or damage claimed and **fourth**, proof that the claimant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails.

In light of the tenant's failure to appear to provide a rebuttal to the landlord's evidence, despite being duly served, I accept the landlord's undisputed evidence.

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.

I find the landlord submitted sufficient oral and documentary evidence that the tenant failed to properly and reasonably clean the rental unit, which caused the landlord to incur expenses in cleaning. I therefore approve their monetary claim for carpet cleaning for \$96.25, stove cleaning for \$45, and general cleaning for \$28.50.

I find the landlord submitted sufficient evidence that the tenant removed the drapes and therefore the landlord was required to provide a replacement. I therefore approve their monetary claim for \$246.40.

I find the landlord submitted sufficient evidence that the tenant damaged the kitchen countertop to an extent it required a replacement. I therefore approve their monetary claim for \$364.

I find the landlord submitted sufficient evidence that the tenant was responsible pursuant to the tenancy agreement to be responsible for missing light bulbs, and I therefore approve the landlord's monetary claim of \$33.

I find the landlord submitted sufficient evidence that, as the tenant failed to return the key FOB to the residential property and the rental unit keys, they had to provide a replacement. I therefore approve their claim for \$112 and \$67.50, respectively.

I approve the landlord's request for recovery of the filing fee of \$50.

Due to the above, I find the landlord is entitled to a total monetary award as claimed, in the amount of \$1041.65.

Conclusion

The landlords' application for monetary compensation is granted.

At the landlord's request, I direct them to retain the tenant's security deposit of \$485 in partial satisfaction of their monetary award of \$1041.65 and I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due in the amount of \$556.65, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

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* and is being mailed to both the applicant and the respondent.

Dated: June 04, 2014

Residential Tenancy Branch

