



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Pemberton Holmes Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNDC, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the landlord's agent.

The landlord provided documentary evidence to confirm the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on August 16, 2014 in accordance with Section 89. Section 90 of the *Act* deems documents served in such a manner to be received on the 5th day after they have been mailed.

Based on the evidence of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for compensation for damage and cleaning of the rental unit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 67, and 72 of the *Act*.

Background and Evidence

The landlord submitted into evidence the following relevant documents:

- A copy of a tenancy agreement signed by the parties on July 2, 2013 for a 1 year fixed term tenancy beginning on August 1, 2013 for the monthly rent of \$1,890.00 due on the 1st of each month with a security deposit of \$945.00 paid;
- A copy of a letter dated April 14, 2014 from the landlord to the tenant advising the tenant that the move out condition inspection would be scheduled for April 22, 2014 at 11:00 a.m.;

- A copy of a Condition Inspection Report recording the condition of the rental unit at the start and at the end of the tenancy;
- Invoices and estimates for repairs; cleaning; and towing charges supporting the amounts claimed by the landlord; and
- 80 photographs recording the condition of the rental unit on the date that the move out condition inspection was completed.

The landlord submits the tenancy ended on April 22, 2014 and that the inspection was completed the same date but that the tenant did not attend the inspection.

The landlord notes that in addition to their claim for cleaning and repairs the tenant had an outstanding towing charge against him. In support of this claim the landlord has submitted a copy of a letter dated February 19, 2014 advising the tenant of the charge as well as documentation from the strata and towing company of the charges.

The landlord seeks the following compensation:

Description	Amount
Towing	\$42.08
Fireplace repair	\$67.46
Cleaning/repair to kitchen cabinet	\$428.00
Clean up patio and feces removal	\$525.00
Hardwood repairs	\$1,350.00
Carpet Replacement	\$406.92
Additional repairs and painting	\$2,820.30
Repair to cut blind strings	\$156.80
Total	\$5,796.56

The landlord confirmed the hardwood floors and carpeting were 4 years old at the time of the end of the tenancy.

Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

Section 37 of the *Act* states that when a tenant vacates a rental unit at the end of a tenancy the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear and give the landlord all the keys or other means of

access that are in the possession or control of the tenant and that allow access to and within the residential property.

Based on the landlord's undisputed evidence and testimony I find the landlord failed to comply with the requirements set out in Section 37 of the *Act* as described by the landlord. As a result, I also find that the landlord has suffered a loss to the value of the rental unit as claimed with the following exceptions:

Description	Amount
Hardwood repairs discounted by 20%	\$1,080.00
Carpet Replacement discounted by 40%	\$244.15

These amounts are discounted based on the age of the flooring and the last time the rental unit was painted. Residential Policy Guideline #40 outlines the useful life of building elements. The guideline specifies the useful life of hardwood flooring to be 20 years; carpets to be 10 years; and interior painting to be 4 years.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$5,463.79** comprised of \$5,363.79 compensation owed and the \$100.00 fee paid by the landlord for this application.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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 04, 2015

Residential Tenancy Branch

