



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TYNIK MANAGEMENT INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MNR, MND, MNDC, FF

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the Residential Tenancy Act ("Act"). The landlord applied for authority to keep all or part of the tenant's security deposit, a monetary order for money owed or compensation for damage or loss, unpaid rent and alleged damage to the rental unit, and for recovery of the filing fee paid for this application.

The landlord attended the telephone conference call hearing; the tenant did not attend.

The landlord testified that she served the tenant with their application for dispute resolution and notice of hearing by registered mail to the forwarding address provided by the tenant in a note left on the kitchen counter. The landlord stated that the mail was not returned to them, the sender.

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

The landlord was provided the opportunity to present her 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 authority to keep all or part of the tenant's security deposit, further monetary compensation, and to recovery of the filing fee paid for this application?

Background and Evidence

The landlord submitted that this tenancy began on June 1, 2013, ended on or about July 28, 2014, monthly rent was \$875.00, and the tenant paid a security deposit of \$437.50. The landlord has retained the security deposit.

The landlord has presented a detailed monetary claim, as follows:

July rent	\$475
August rent	\$875
Cleaning	\$340
Painting	\$1178
Bathroom sink	\$49
Chip in tub	\$200
Light fixture globe	\$11.19
Damaged flooring	\$300
Damaged bathroom flooring	\$300
Blinds	\$38.01
Heat register	\$5.26
New lock	\$61.63
Mailbox service call	\$125
Carpet cleaning	\$250
Stump removal	\$100
Bedroom door	\$41.29
Bedroom door knob	\$24.17

The landlord's relevant documentary evidence included, but was not limited to, photographs of the rental unit, a written summary, a witness statement regarding a pest control matter, a short statement entitled "Damage Check List" signed by the tenant on May 27, 2013, an unsigned move-out condition inspection report, a written tenancy agreement, the written forwarding address provided by the tenant, an emailed painting quote from a painter, a statement signed by the landlord denoting 17 hours of cleaning for the rental unit @ \$20 per hour, and email communication between the parties.

The landlord confirmed that there was not a move-in condition inspection report taken, although the tenant signed a statement that said new floors throughout, new paint throughout, front and back door frames painted, "countertops bathrooms and kitchen worn", and new taps throughout.

In support of her monetary claim, the landlord submitted and stated as follows:

July rent-

The tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities for the month of July, and ultimately paid only \$400 for July, leaving a rent deficiency of \$475.

Loss of rent revenue for August 2014-

The state of the rental unit as left by the tenant and lack of sufficient notice from the tenant prevented the landlord from advertising and obtaining a new tenant for August 2014, causing a loss of rent revenue.

Cleaning-

The state of the rental unit as left by the tenant required the landlord to spend 17 hours herself in cleaning. The tenant left behind personal property and an unclean rental unit. The landlord referred to her photographs to depict the state of the rental unit.

Painting-

The landlord obtained a quote from a local painter, showing 3 rooms for \$589 and the walls were so bad, 2 coats of paint were required. The rental unit was re-painted by the landlord.

Remaining claim-

As to the remaining items in the landlord's claim, the landlord submitted that the rental unit was damaged by the tenant during the tenancy, as listed. For instance, the landlord stated that there was a chip in the tub which was not there at the beginning of the tenancy. Additionally, the sink, flooring, and blinds were damaged, a door knob and light globe were missing, the carpet required cleaning, and the keys and mailbox keys were not returned. The tenant failed to have the carpet clean, and the landlord provided

the steam cleaning herself. The tenant left a large tree stump at the rental unit, requiring the landlord to haul it away.

Analysis

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that occurs as a result of their actions or neglect, so long as the applicant verifies the loss, as required under section 67. Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss.

July rent-

Under section 26 of the Act, a tenant is required to pay rent in accordance with the terms of the tenancy agreement and is not permitted to withhold rent without the legal right to do so. Under the terms of the written tenancy agreement provided by the landlord, I find that the tenant owed rent for the month of July 2014 and did not pay the full amount. I therefore find the landlord is entitled to a rent deficiency of \$475.00.

Loss of rent revenue for August 2014-

I find the landlord submitted sufficient undisputed evidence to show that due to the tenant's insufficient notice and the state of the rental unit, the landlord could not obtain a new tenant for the month of August 2014, and I therefore find they are entitled to a monetary award of \$875.00.

Cleaning-

As to the cleaning, Section 37 of the Act states that a tenant must leave the rental unit reasonably clean. In the absence of the tenant's testimony or evidence, I accept the photographic evidence and testimony of the landlord that the tenant did not clean the rental unit to a reasonably clean state and that the rental unit required cleaning. However, without the move-in condition inspection report, I am unable to make a determination that the cleaning required 17 hours. I find that a reasonable amount of cleaning time would be 10 hours at \$20.00 per hour and I grant the landlord a monetary award of \$200.00

Painting-

After reviewing the landlord's photographic evidence and the tenant's statement that the painting was new at the beginning of the tenancy, I find the tenant damaged the walls to such an extent that a complete repainting was required. For instance, in one photograph, a gouge in the drywall was shown, and in other instances, depictions of the tenant's child writing on the walls, signing their name.

As to the amount claimed, \$1178.00, I find that the landlord has not adequately supported this amount. The amount was based upon an estimate from an online advertisement and the landlord performed the work herself. Without sufficient proof of an expenditure, I find a reasonable amount to award the landlord for costs of repainting to be \$600.00.

Flooring-

After reviewing the landlord's photographic evidence and the tenant's signed statement that the flooring was new at the start of the tenancy, I find the tenant damaged the floor and that a repair was necessary. As to the amount claimed, \$600.00, I find that the landlord has not adequately supported this amount through proof of an expenditure. I therefore find that a reasonable amount to award the landlord for costs of repair to the flooring to be \$300.00.

Carpet cleaning-

Residential Tenancy Branch Policy Guideline 1 states that after a tenancy of one year, a tenant is generally expected to steam clean the carpet. I find the landlord submitted sufficient evidence to show that the tenant failed to clean the carpet prior to vacating. As to the amount claimed, \$250.00, I find that the landlord has not adequately supported this amount through proof of an expenditure. I therefore find that a reasonable amount to award the landlord for costs of cleaning the carpet to be \$100.00.

Remaining claim-

Although the landlord submitted a move-out condition inspection report, I could not compare the state of the rental unit at the end of the tenancy to the beginning, as there was not a corresponding move-in inspection report. For instance, there was no proof of a lack of a chip in the tub at the beginning of the tenancy or damage to the door or door knob.

Due to the lack of a move-in condition inspection report and proof of an expenditure, I dismiss the landlord's claim for damage to or replacement costs of the bathroom sink, chipped tub, a missing light fixture globe, bedroom door and door knob, the blinds, the heat register, new locks, service call, and stump removal.

Due to the above, I find the landlord is entitled to a total monetary award of \$2600.00, comprised of unpaid July rent of \$475.00, loss of rent revenue for August 2014 for \$875.00, cleaning for \$200.00, painting for \$600.00, flooring for \$300.00, carpet cleaning for \$100.00, and for recovery of the filing fee paid for this application for \$50.00.

At the landlord's request, I direct them to retain the tenant's security deposit of \$437.50 in partial satisfaction of their monetary award of \$2600.00 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 \$2162.50, 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.

Conclusion

The landlord's application for monetary compensation is granted in part, as they have been granted a monetary award of \$2600.

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 2, 2015

Residential Tenancy Branch

