



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, MNSD, O, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the *Act*") for:

- a monetary order for damage to the rental unit pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- another remedy or compensation under the *Act*; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, and to make submissions. The landlord testified that he served his dispute resolution package to the tenants by registered mail on November 12, 2014. The tenants confirmed receipt of this package. I accept the tenants were sufficiently served with the landlord's Application for dispute resolution.

Issue(s) to be Decided

Is the landlord entitled to a monetary award for damage arising out of this tenancy?

Is the landlord entitled to retain all or a portion of the tenants' security deposit towards any monetary award?

Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

This tenancy began December 1, 2012 for a one year fixed term. The tenancy continued on a month to month basis after December 1, 2013. The rental amount was \$1500.00 payable on the first of each month. The landlord testified that he continues to

hold a security deposit in the amount of \$750.00 paid by the tenants on December 1, 2012. The tenants vacated the rental unit November 1, 2014.

The landlord sought to obtain a monetary order in the amount of \$3799.00 to replace the carpets within the residential premises. He originally applied for \$5000.00 based on an earlier estimate but amended his claim to reduce the amount sought. The landlord testified that other issues of damage and financial loss remain outstanding, including repairs to the drywall in the garage of the home, replacement of certain household items and his costs to have the unit cleaned after the tenants vacated. However, the landlord testified that he relied solely on his claim of loss in replacing the carpets in this hearing.

The landlord testified that there were approximately six bleach marks left on the floors at the end of this tenancy. He testified that the marks were not present prior to the tenancy. The landlord testified that he acknowledges that the tenants had the carpets professionally cleaned but testified that he believes they used bleach to try to clean some stains themselves. The result, according to the landlord's testimony was that the carpeted area of the home, the upper floor of the townhouse with the bedrooms, was ruined.

The landlord submitted correspondence with a carpet company regarding possible steps to repair the damage to the carpets. The correspondence indicated that the landlord could remove the damage areas and put new patches of carpet in their place or that the carpet could be replaced entirely. The landlord supplied two quotes of \$3799.00 and \$3999.00. Both quotes were based on replacing the carpet entirely. The landlord testified that the carpet is limited to the upper floor of the townhome. His quotes provided refer to a total of 948 square feet.

The tenants both testified that, during the move-in inspection, the carpets were still wet. The tenants testified that, after the carpets dried, there were stains that had not been removed by cleaning. The tenants testified that they never addressed this issue with the landlord. Tenant JN also testified that the rental unit was very unclean when they moved in.

The landlord described the rental property as a townhouse purchased new in 2008. He testified that he was the first resident of the property. He testified that the property had one previous rental tenant prior to these tenants. He testified that there were no marks or stains on the carpet prior to these tenants moving in. He testified that, given how new his home is, he believes that he is entitled to replace the entire carpet to ensure it meets the same standards that existed when the tenants moved in.

A condition inspection report was submitted by the landlord in evidence: it indicates “upstairs carpet needs to be replaced. unit needs to be cleaned, drywall repairs in master BD and Garage.” Neither tenants signed the move-out inspection.

Analysis

Section 35 of the *Act* requires a condition inspection at the end of tenancy. That inspection is to take place on or after the day of move-out or on a day agreed upon by both parties. In this case, an inspection was not conducted with the tenants. In compliance with section 35(5) of the *Act*, the landlord completed a condition inspection and a report without the tenants as they did not participate in the inspection.

With respect to the condition of the rental unit, section 37(2)(a) of the *Act* provides that the tenant must leave the rental unit reasonable clean and undamaged except for reasonable wear and tear. This tenancy began in December 2012 and continued for 1 year and 11 months. During the course of that time, one can expect a certain level of wear and tear to the unit. Residential Tenancy Policy Guideline No. 1 describes “wear and tear”:

Reasonable wear and tear refers to natural deterioration that occurs due to aging and other natural forces, where the tenant has used the premises in a reasonable fashion. An arbitrator may determine whether or not repairs or maintenance are required due to reasonable wear and tear or due to deliberate damage or neglect by the tenant. An arbitrator may also determine whether or not the condition of premises meets reasonable health, cleanliness and sanitary standards, which are not necessarily the standards of the arbitrator, the landlord or the tenant.

In reviewing the materials submitted by the landlord, I find that the testimony of the landlord was provided in a reasonable and believable manner. I find that the landlord supported his testimony with quotes provided for the repairs to be done within the rental unit, particularly with respect to the carpets. I find that the carpet stains identified were beyond reasonable wear and tear as a result of tenancy. On a balance of probabilities, the tenants were neglectful in creating bleach stains in several locations of the upstairs of the home with the intention of ensuring the carpets were cleaned thoroughly at move-out.

I also find that Residential Tenancy Policy Guideline No. 40 is relevant to this case in that it establishes guidelines for the useful life of various elements of a residential

premise. In the case of carpets, the guidelines indicate that carpets should last approximately 10 years. The landlord has submitted evidence that states that the rental unit is approximately 7 years old and this tenancy continued for less than two years.

When a claim is made with respect to damages and monetary compensation for damage to a rental unit, the landlord bears the burden of proof on a balance of probabilities to show that the damage exists and that it exists as a result of the tenancy. Further, the landlord must show evidence of the monetary loss he has incurred.

For this application, the landlord has submitted quotes that establish that damage to the carpets existed at the end of this tenancy and repairs or replacement were required. He also submitted a condition inspection report made contemporaneously with the end of the tenancy. That report reflects damage to the carpets. The tenants' response is that the stains on the carpet pre-dated their tenancy however they acknowledged that they had no correspondence with the landlord, condition inspection report notes or follow-up during the tenancy to support this claim.

On a balance of probabilities, I find that the landlord has shown that the carpets were damaged as a result of this tenancy. Therefore, the tenants are responsible to compensate the landlord for this damage. I take into consideration that these carpets were 7 years old at the end of the tenancy and that previous tenants had resided in the unit. I also take into consideration the guidelines for the useful life of carpet in a residence. Given that a carpet's lifespan is approximately 10 years, I find that the tenants are responsible for a portion, 30% of the replacement of those carpets.

I accept the landlord's quote provided of \$3799.00 and I find that he is entitled to a monetary order in the amount of \$1139.70 towards his costs.

Pursuant to section 72(2) of the *Act* that allows a landlord to retain all or a portion of a security deposit and any interest payable over the duration of the tenancy towards an amount owed by the tenants, I allow the landlord to retain the \$750.00 in partial satisfaction of the monetary order. There is no interest payable over this period.

As the landlord was successful in his application, I find the landlord is entitled to recover the \$50.00 filing fee for this application.

Conclusion

I issue a monetary Order in favour of the landlord as follows:

Carpet replacement (30% of \$3799.00)	\$1139.70
Less Security Deposit	-750.00
Recovery of Filing Fee for this application	50.00
Total Monetary Award	\$439.70

The landlord is provided with formal Orders in the above terms. Should the tenant(s) fail to comply with these Orders, these Orders may be filed and enforced as Orders of the Provincial Court of British Columbia.

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: June 16, 2015

Residential Tenancy Branch

