



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CASCADIA APARTMENT RENTAL LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNSD, MNDC, MND, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act (the “Act”), for a monetary order for damages to the unit and for an order to retain the security deposit in partial satisfaction of the claim.

The landlord’s agent attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord’s agent testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail on December 2, 2014, a Canada post tracking number was provided as evidence of service. The agent stated that the tracking number showed that the item was successfully delivered to the tenant.

I find that the tenant has been duly served in accordance with the Act.

The landlord’s agent appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Is the landlord entitled to monetary compensation for damages?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The tenancy began on October 1, 2013. Rent in the amount of \$850.00 was payable on the first of each month. The tenant paid a security deposit of \$425.00. The tenancy ended on November 22, 2014.

The landlord's agent testified that the tenant left the carpets dirty at the end of the tenancy. The agent stated that they seek to recover the cost that they incurred for cleaning the carpets in the amount of \$89.25. Filed in evidence is a receipt for carpet cleaning.

The landlord's agent testified that the tenant did not clean the rental at the end of the tenancy and the appliances, floors, cabinets, windows all had to be cleaned. Filed in evidence is a receipt for cleaning.

The landlord's agent testified that the rental unit was freshly painted at the start of the tenancy. The agent stated that at the end of the tenancy the walls were scratched, dented and holes had to be repaired as the tenant hung a television on the wall. The agent stated that they only provided the one receipt in the amount of \$157.50 and that they are withdrawing their claim materials. Filed in evidence is a receipt for painting.

The landlord's agent testified that the tenant caused damage to the bathroom counter by using the sink to wash their clothing and leaving wet clothing on the counter top. The agent stated that this caused the countertop to rot. The agent stated that the counter top was approximately two years old at the end of the tenancy. The landlord seeks to recover the cost to replace the countertop in the amount of \$189.00. Filed in evidence is a receipt.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

Section 7(2) of the Act states a landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

How to leave the rental unit at the end of the tenancy is defined in Part 2 of the Act.

Leaving the rental unit at the end of a tenancy

37 (2) When a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

I accept the undisputed testimony of the landlord's agent that the tenant left the carpets dirty at the end of the tenancy.

Under the Residential Tenancy Policy Guideline 1, which clarifies the rights and responsibilities of the parties for the premises under the Act, the tenant is generally expected to clean the carpets if vacating after a tenancy of one year. Therefore, I find the tenant breached the Act, when they failed to clean the carpets at the end of the tenancy and this caused losses to the landlord. Therefore, I find the landlord is entitled to recover the cost of cleaning the carpets in the amount of **\$89.25**.

I accept the undisputed testimony of the landlord's agent that the tenant did not leave the rental clean at the end of the tenancy. I find the tenant breached the Act, when they failed to clean the items as described by landlord and this caused losses to the landlord. Therefore, I find the landlord is entitled to recover the cost of cleaning in the amount of **\$240.00**.

I accept the undisputed testimony of the landlord's agent that the tenant caused damage to the walls, by scratching, denting and hanging a television set, which these repairs required to be painted. I find the tenant breached the Act, when they failed to leave the rental unit undamaged. Therefore, I find the landlord is entitled to recover the cost of painting in the amount of **\$157.50**.

I accept the undisputed testimony of the landlord's agent that the tenant damaged the bathroom countertop by using the sink to wash their clothing and leaving wet clothing on the countertop. I find the tenant breached the Act, when they failed to leave the rental unit undamaged and this caused losses to the landlord.

However, the Residential Tenancy Policy Guideline 40 defines the useful life of building elements. If the tenant damaged an item, the age of the item may be considered when calculating the tenant's responsibility for the cost of replacement.

I have determined based on the guideline that the countertop had a useful life span of 25 years. The countertop was 2 years old at the time of replacement. I find the landlord is entitled to the depreciated value of 80 percent.

I have reviewed the invoice submitted as evidence by the landlord the new counter top cost \$69.00. Therefore, I find the landlord is entitled to compensation for the cost of replacing the item in the amount of **\$63.48**.

Furthermore, I find the landlord is entitled to the full amount of labour stated in the invoice for removing the old countertop and installing the new countertop in the amount of **\$120.00**.

I find that the landlord has established a total monetary claim of **\$720.23** comprised of the above described amounts and the \$50.00 fee paid for this application.

I order that the landlord retain the security deposit of **\$425.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 of the Act for the balance due of **\$295.23**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The landlord is granted a monetary order and may keep the security deposit in partial satisfaction of the claim and the landlord is granted a formal order for the balance due.

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: July 10, 2015

Residential Tenancy Branch

