



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested compensation for damage to the rental unit, damage or loss under the Act, to retain the security deposit and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that on December 17, 2014 copies of the Application for Dispute Resolution and Notice of Hearing were sent to each tenant by registered mail. The landlord used the address that had been provided by the tenants on November 30, 2014. A Canada Post tracking number was provided as evidence of service to each tenant. The male tenant signed accepting both hearing packages.

These documents are deemed to have been served in accordance with section 89 and 71 of the Act. I find the female tenant has been sufficiently served to the address provided. Neither tenant attended the hearing.

Preliminary Matters

There was no claim for damage or loss under the Act.

Issue(s) to be Decided

Is the landlord entitled to compensation for damage to the rental unit?

May the landlord retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The tenancy commenced on February 15, 2012. Rent was \$1,400.00 per month, due on the first day of each month. A security deposit in the sum of \$700.00 was paid. The tenants vacated on November 30, 2014.

A copy of the signed tenancy agreement and move-in and move-out condition inspection reports were supplied as evidence.

The tenants signed the move-out inspection report agreeing to multiple areas of damage to the rental unit:

- Hole in bedroom wall from door handle;
- Bathroom sink chipped;
- Shower door downstairs, pieces missing, broken;
- Bathroom drawer damaged water;
- 2 cabinet door damage from water;
- 2 screens missing;
- Tile in front of fridge chipped;
- Countertop swollen; and
- Water damage in family room.

The tenants signed the inspection report agreeing the landlord could retain the security deposit.

The landlord has made the following claim:

Kitchen cabinets and counters	\$1,920.30
Kitchen and bathroom faucets	438.63
Repair furnace electrical	186.68
Shower doors	583.02
Repair grout and tile	250.00
Repair hole in wall	100.00
Replace 2 screens	100.00
TOTAL	\$3,578.63

The whole unit had been fully renovated in 2008; the landlord said it was completely re-done in preparation for a family member.

It was not until the end of the tenancy that the landlord became aware of damage that had been caused to the kitchen cabinets. The tenants had allowed water to repeatedly over-flow from the sink. The cabinet drawers were warped and split, the counter was swollen and the cabinet under and next to the sink were damaged. The dishwasher door could not properly close as a result of the cabinet swelling.

The kitchen cabinets and counter were replaced; a December 12, 2014 proposal for repair in the sum of \$1,920.30 was supplied as evidence.

The swelling of the counters caused pressure on the kitchen faucet; which resulted in damage to the faucet. The bathroom faucet was damaged as the tenants allowed their son to use it to pull himself up onto the counter. The tenants told the landlord this was how the damage occurred. Both faucets were replaced. The December 7, 2014 invoice

supplied as evidence has been adjusted downward to account for a pressure value that was also installed at the same time.

The tenants called the landlord to report a problem with the furnace fan. The tenant told the repairperson who attended the home that he had tried to fix the problem and accidentally cross-wired the unit. This resulted in the need for repair. A September 10, 2014 invoice was supplied as evidence.

The shower in the lower level of the home has a curved door. The track for the door broke and the tenants said they must have thrown the pieces out. The landlord attempted to locate replacement parts and has been told those parts cannot be purchased separate from the door unit. The landlord supplied a cost for the doors, obtained through a popular home supply outlet.

The landlord hired an individual to repair the damaged kitchen tile. The landlord had extra tiles left over from the original renovation. The same person also completed repair to the wall. Two screens were purchased to replace those that were missing at the end of the tenancy.

The landlord provided copies of 25 coloured photographs of the areas that had been damaged.

Analysis

When making a claim for damages under a tenancy agreement or the Act, the party making the allegations has the burden of proving their claim. Proving a claim in damages requires that it be established that the damage or loss occurred, that the damage or loss was a result of a breach of the tenancy agreement or Act and proof that the party took all reasonable measures to mitigate their loss.

The landlord has supplied a copy of the move-out inspection report that was signed by the tenants, allowing the landlord to retain the security deposit and confirming the damage included on the report.

In the absence of the tenants who were each served with notice of this hearing I find that the landlord has provided evidence in support of the sums claimed. Section 37 of the Act requires a tenant to leave a rental unit undamaged, outside of normal wear and tear. From the evidence before me I find that the damage caused was the result of negligence on the part of the tenants. I find that the damage was not the result of the age of the building elements, which were all just six years old.

Therefore, pursuant to section 67 of the Act, I find the landlord is entitled to compensation as claimed.

As the landlord's application has merit, and I find that the landlord is entitled to recover the \$50.00 filing fee from the tenants for the cost of this Application for Dispute Resolution.

I find that the landlord is entitled to retain the tenant's security deposit in the amount of \$700.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the landlord a monetary Order for the balance of \$2,928.63. In the event that the tenants do not comply with this Order, it may be served on the tenants, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion

The landlord is entitled to compensation as claimed.

The landlord is entitled to retain the security deposit.

The landlord is entitled to filing fee costs.

This decision is final and binding and 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 23, 2015

Residential Tenancy Branch

