



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MND, 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.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

Preliminary Matters

The landlord supplied copies of registered mail receipts for mail sent to each tenant on May 21, 2015, as evidence of service of the amended application.

The male tenant was present at the hearing and provided affirmed testimony that the hearing documents sent via registered mail were received. The tenant confirmed that each tenant received the application that was amended by the landlord on May 20, 2015, increasing the total claimed.

As the tenant confirmed that his co-tenant was given the hearing documents, I find that the co-tenant was sufficiently served with the hearing documents and evidence.

There was no claim before me related to damage or loss; only damage to the rental unit.

Issue(s) to be Decided

Is the landlord entitled to compensation for damage to the rental unit in the sum of \$2,219.47?

May the landlord retain the security deposit?

Background and Evidence

The tenancy commenced on March 25, 2012, rent was \$1,940.00 per month. A security deposit in the sum of \$970.00 was paid.

The parties agreed that the tenancy ended on March 31, 2015.

A move-in and move-out condition inspection report was completed. The tenants provided a forwarding address on the last day of the tenancy and within 15 days the landlord applied claiming against the deposit.

The rental unit is a 2,000 square foot, three bedroom home.

A copy of the tenancy agreement and inspection reports was supplied as evidence.

The landlord has made the following claim:

Cleaning, removing trash, repairs	\$490.54
Painting	358.18
Cleaning	1,029.00
Carpet cleaning	141.75
TOTAL	\$2,019.47

The landlord supplied invoices for work completed on the rental unit. The landlord has reduced the sum claim for cleaning and trash removal by \$200.00 on invoice #5107.

At the start of the hearing the tenant agreed to the carpet cleaning claim and \$5.00 for disposal charges.

The condition inspection report completed at the end of the tenancy indicated that walls were marked with crayon, that some blinds required cleaning, that floors, carpet and lino was not clean and the appliances needed cleaning. Notations on the report signed by the landlord and female tenant on March 31, 2015 indicates the tenant agreed to carpet cleaning, housekeeping of the whole house, door repair and paint touch-ups.

Invoice #5107 issued on April 29, 2015 set out a total of \$690.54 for the cost of cleaning out the shed, carport, spider webs from the whole house, the front entry, chandelier,

replacement of a bedroom door, disposal of trash and recycling, material in the sum of \$42.66 and a dump fee of \$5.00. The invoice did not supply any further breakdown of the cost for each service provided.

The April 29, 2015 invoice was issued after the cleaning in the home was completed. There were cob webs remaining, that the cleaners could not reach; the door was old and was replaced. A photograph supplied as evidence showed the door knob had broken from the door. The landlord said they usually pay \$100.00 for doors. Garbage was left in the shed and the carport. The landlord said the cost for these items would be reduced by \$200.00 in recognition of the age of the door and items in the shed that were not the tenants'. The landlord agreed that some items in the shed did not belong to the tenants.

Invoice #5108 was issued on April 29, 2015 and set out a claim for painting the entire home, touch-up throughout the house and painting four closet doors. The landlord said they could not remove the crayon, so painting was required. The invoice of \$716.35 was reduced to reflect the tenants' share. Photos supplied as evidence showed crayon marks on the doors and wall. There was no dispute that walls and doors had been marked with crayon. There was also a photo showing damage caused to a wall as the result of a safety gate installation. The landlord said that prior to the tenants moving in the unit was given two coats of high quality eggshell paint; applied by a professional painter.

At the time the condition inspection was completed the landlord did not believe the home required the level of cleaning that they discovered was required after the tenants vacated. When the inspection was finalized the tenants were told that when the cleaning was completed the landlord could not guarantee how many hours it would take. On April 7 and 8, 2015 two people worked for eight and six hours each, respectively. The cleaners charged \$35.00 per hour each. The whole house needed cleaning. The cleaners found feces on the baseboards in the bathroom, the oven was not cleaned. The landlord paid the standard hourly rate that is required in this resort community. The landlord said the cleaners clearly expressed the need for considerable time, given the state of the home.

The tenant said that when they moved into the unit there was work ongoing and that workers would leave items in the carport. Some of these items were never removed. A vanity, buckets, nails were left. The tenant did not remove bags of leaves and as the landlord had agreed to haul yard waste twice annually. The tenants did not leave garbage in the shed. The tenant said the home had a lot of spiders and did not disagree there may have been webs. The tenant said it was hard to respond to invoice #5107 as it was not itemized and there were no pictures supplied.

In relation to the claim for damage, the tenant stated that the door was the only item they had damaged.

The tenant said that after a three year tenancy it would be reasonable for the landlord to paint. The tenant stated the unit was not fully painted when they moved in. The tenant acknowledged that walls and doors had been marked by crayon, but it could not be cleaned due to the poor quality finish of the paint. The tenant filled the holes caused by the safety gate installation, but had not painted this area.

The tenant pointed to the inspection report that indicated the entire house required housekeeping. The tenant said that the bill submitted by the landlord is excessive. The tenant said that the cleaning completed went far beyond that required and that the hourly rate charged was unacceptable. The tenant believes that \$20.00 per hour would have been reasonable. If the home had required this level of cleaning the need for cleaning should have been brought up at the time the inspection was completed. The tenant believes an agreement for housekeeping is not the same as agreement to have the home "deep-cleaned."

The landlord replied that the tenant was free to arrange cleaning if he could locate someone to do so for \$20.00 per hour.

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.

Section 37(2) of the Act provides:

2) When a tenant vacates a rental unit, the tenant must

(a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and

(b) 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.

I have considered the invoice supplied that included multiple repairs and cleaning, with no breakdown for each item. This made it difficult to properly respond to each item, as the specific cost of the repairs and removal of trash or cleaning was not provided. The tenant did not dispute the presence of spider webs and the disposal fee, the cost of which was included on the invoice.

In the absence of a detailed calculation of the costs claimed on invoice #5107 I find that the landlord is entitled to a nominal sum of \$100.00 for removal of items that had to be disposed of, removal of spider webs and the disposal fee. I have provided nominal compensation as the respondent was not provided with a fair opportunity to know what the cost for each item was. Further, the landlord has confirmed that the door was older

and that cost was removed from the claim. There was no other evidence before me confirming that any of these items were included on the move-out inspection report. Therefore, I find that the balance of the claim for these items is dismissed.

Residential Tenancy Branch policy suggests that a rental unit should be painted once every four years. This tenancy ended after a term of three years. While the unit would be due for painting at the end of the year following the tenancy I find that the tenants must assume responsibility for the cost of repainting the doors and other areas as a result of the crayon. I have rejected the tenants' claim that the paint surface was poor, resulting in difficulty removing the crayon. I find that it was the tenants' negligence, allowing crayon to be used on the surfaces that resulted in the need for this painting. Therefore, pursuant to section 67 of the Act I find that the landlord is entitled to the sum claimed for painting.

I have considered the move-out inspection report which was signed by the tenants, agreeing that housekeeping of the whole house was required. I have considered the size of the home and the submissions of each party. No photographs were supplied setting out the need for 28 hours of cleaning. The tenant said that he believed that housekeeping would not include a deep-clean of the unit and I find that stance has some merit. A tenant is held to a standard of "reasonably clean" and, as set out in RTB policy, is not responsible for cleaning a unit to a standard beyond that required by the Act. The inspection report did not record the specific areas of the home that required cleaning, but I find that a reference to the need for housekeeping of the whole house indicates that a significant amount of cleaning remained to be completed once the tenancy had ended. This was a 2,000 square foot home, which would take time to clean.

On the balance of probabilities I find that the tenants failed to leave the rental unit reasonably clean. This is supported by the tenants' acknowledgment that the whole house needed housekeeping. Therefore, I find that the number of hours claimed by the landlord is reduced to 20 hours, what I find a reasonable reflect to housekeep a 2,000 square foot home. The balance of the claim for cleaning is dismissed.

The tenant has agreed to the carpet cleaning costs; therefore I find that the landlord is entitled to the cost claimed.

Therefore, the landlord is entitled to the following compensation:

	Claimed	Accepted
Cleaning, removing trash, repairs	\$490.54	\$100.00
Painting	358.18	358.18
Cleaning	1,029.00	700.00
Carpet cleaning	141.75	141.75
TOTAL	\$2,019.47	\$1,299.93

As the landlords' claim has merit I find 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 tenants' security deposit in the amount of \$970.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the landlord a monetary Order for the balance of \$379.93. In the event that the tenant does not comply with this Order, it may be served on the tenant, 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 in the sum of \$1,299.93. The balance of the claim is dismissed.

The landlord may 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: September 23, 2015

Residential Tenancy Branch

