



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Associated Property Management (2001) Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNR, MNSD, MND, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order unpaid rent or utilities; for a monetary Order for damage; to keep all or part of the security deposit or pet damage deposit; and to recover the fee for filing this Application for Dispute Resolution.

The Agent for the Landlord stated that on April 27, 2015 the Application for Dispute Resolution, the Notice of Hearing, and evidence the Landlord submitted to the Residential Tenancy Branch with the Application for Dispute Resolution were sent to each Tenant, via registered mail, at the service address noted on the Application. The Agent for the Landlord stated that she obtained the service address by locating the Tenants' vehicle outside of that residence.

The Landlord submitted Canada Post documentation that shows the female Tenant signed for both packages on April 28, 2015.

In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however neither Tenant appeared at the hearing.

Issue(s) to be Decided

Is the Landlord entitled to compensation for unpaid utilities and damage to the rental unit?
Is the Landlord entitled to retain all or part of the security deposit and pet damage deposit?

Background and Evidence

The Agent for the Landlord stated that:

- this tenancy began on November 01, 2012;
- the Tenants paid a security deposit of \$1,000.00 and a pet damage deposit of \$800.00;
- the Tenants agreed to pay monthly rent of \$2,000.00;
- the tenancy ended on September 30, 2014; and
- the Tenants did not provide a forwarding address after the end of the tenancy.

The Agent for the Landlord dated that condition inspection report was completed on October 14, 2012. She stated that several times were scheduled to complete a condition inspection report

at the end of the tenancy and that sometime during the last week in September of 2014 she posted a Notice to Enter on the door of the rental unit, in which the Tenants were informed that the unit would be inspected on September 30, 2014. She stated the Tenants did not attend the scheduled inspection and a condition inspection report was completed, in the absence of the Tenants, on October 02, 2014. A copy of the condition inspection report was submitted in evidence.

The Landlord is seeking compensation, in the amount of \$700.00, in rent, which the Agent for the Landlord stated remained unpaid at the end of the tenancy.

The Landlord is seeking compensation, in the amount of \$702.59, for unpaid water bills. The Agent for the Landlord stated that the Tenant was obligated to pay for water consumed during the tenancy. The Agent for the Landlord stated that late charges were charged because the water bills were not paid on time, which have been included in the claim for unpaid utilities.

The Landlord submitted water bills to show water charges of \$787.16 were incurred for the period between January 01, 2013 and June 30, 2014. The Landlord submitted a water bill, in the amount of \$380.28, for the period between July 01, 2014 and December 31, 2014. The Landlord has calculated that the Tenant owes \$152.78 of this bill, although the Agent for the Landlord was unable to clearly articulate how the Landlord arrived at this amount.

The Landlord submitted several letters to the Tenant in which they are directed to pay the water bill to the Landlord.

The Agent for the Landlord stated that she was not responsible for collecting the utility payments so she is not certain what utility payments were made during the tenancy. She stated that she believes the Tenants paid \$250.00 toward the bill dated March 21, 2013, in the amount of \$253.00, and \$253.00 toward the bill dated September 20, 2013, in the amount of \$524.81. She stated that she does not believe any other payments were made towards the water bill.

The Landlord is seeking compensation, in the amount of \$700.00 for painting the rental unit. The Agent for the Landlord stated that the walls were "beaten up" and that several small holes in the walls needed to be repaired. The condition inspection report completed at the end of the tenancy indicates the walls needed repair.

The Landlord submitted an invoice to show that it cost \$700.00 to paint the rental unit. The Agent for the landlord stated that she does not know when the rental unit was previously painted.

The Landlord is seeking compensation of \$283.50 for cleaning the carpet and \$378.00 for general cleaning. The Agent for the Landlord stated that the carpet and the rental unit required cleaning at the end of the tenancy. The condition inspection report completed at the end of the tenancy indicates the carpet and unit required cleaning. The Landlord submitted invoices to show that it cost \$283.50 to clean the carpet and \$378.00 to clean the rental unit.

The Landlord is seeking compensation of \$154.14 for re-keying the locks to the rental unit. The Agent for the Landlord stated that the Tenants were provided with two sets of keys and only one set was returned at the end of the tenancy. The Landlord submitted an invoice to show that it cost \$154.14 to re-key the rental unit.

The Landlord is seeking compensation of \$55.04 for replacing light bulbs that had burned out during the tenancy. The Agent for the Landlord estimated that approximately 12 light bulbs had burned out during the tenancy. The Landlord submitted receipts to show this expense was incurred.

The Landlord is seeking compensation of \$304.50 for repairing the central vacuum cleaner. The Agent for the Landlord estimated that the canister of the vacuum cleaner was not cleaned during the tenancy and the lines were blocked, which damaged the motor of the vacuum cleaner. The Landlord submitted receipts to show this expense was incurred.

The Landlord is seeking compensation, in the amount of \$351.75, for "various repairs as listed". The Landlord provided an invoice associated to this claim in which the Landlord indicates it is claiming \$225.00 plus 5% GST to repair a door; \$55.00 plus 5% GST to repair closet shelves; and \$55.00 plus 5% GST to replace a broken microwave handle. The Agent for the Landlord stated that all of these items were damaged during the tenancy. The condition inspection report completed at the end of the tenancy indicates these items required repair.

Analysis

Section 26 of the *Act* requires tenants to pay rent when it is due. On the basis of the undisputed evidence, I find that the Tenants still owed \$700.00 in rent at the end of the tenancy, which must be paid in accordance with section 26 of the *Act*.

On the basis of the undisputed evidence, I find that the Tenants were obligated to pay for water consumption during the tenancy. On the basis of the bills submitted in evidence, I find that water charges of \$787.16 were incurred for the period between January 01, 2013 and June 30, 2014, which the Tenants were obligated to pay.

As the rental unit was occupied by the Tenants for three months of the billing period between July 01, 2014 and December 31, 2014, I find that the Tenants must pay 50% of the \$380.28 bill for this six month period, which is \$190.14.

I therefore find that the Tenants were obligated to pay the Landlord \$977.30 for water consumed during the tenancy, which must be reduced by the \$503.00 the Agent for the Landlord testified has already been paid. I therefore find that the Tenants still owe \$474.30 for water consumption.

It appears the Landlord's calculation for water charges includes some fees for not paying the water bill on time. As the bills were not in the Tenants' names and the Landlord submitted documentation that indicates the water charges were to be paid to the owner of the rental unit, I cannot conclude that the Tenants are responsible for paying any fees arising from the water bill not being paid when it was due. I therefore decline to award compensation for any late charges incurred.

When making a claim for damages under a tenancy agreement or the *Act*, the party making the claim has the burden of proving their claim. Proving a claim in damages includes establishing that damage or loss occurred; establishing that the damage or loss was the result of a breach of the tenancy agreement or *Act*; establishing the amount of the loss or damage; and establishing that the party claiming damages took reasonable steps to mitigate their loss.

Section 37(2) of the *Act* requires tenants to leave a rental unit reasonably clean at the end of a tenancy; to leave a rental unit undamaged at the end of a tenancy, except for reasonable wear and tear; and to 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.

On the basis of the undisputed evidence, I find that the Tenants failed to comply with section 37(2) of the *Act* when they failed to repair the damage to the walls.

Claims for compensation related to damage to the rental unit are meant to compensate the injured party for their actual loss. In the case of fixtures in a rental unit, a claim for damage and loss is based on the depreciated value of the fixture and not based on the replacement cost. This is to reflect the useful life of fixtures, such as carpets and countertops, which are depreciating all the time through normal wear and tear.

The Residential Tenancy Policy Guidelines show that the life expectancy of interior paint is four years. The evidence shows that the duration of this tenancy was 22 months. As the Agent for the Landlord did not know when the rental unit was painted prior to the start of this tenancy, I find I have insufficient evidence to determine whether the paint had exceeded its life expectancy, in which case the Landlord would not be entitled to compensation for re-painting the unit. As I am unable to establish whether the paint in the unit had exceeded its life expectancy, I dismiss the Landlord's claim for re-painting the rental unit.

On the basis of the undisputed evidence, I find that the Tenants failed to comply with section 37(2) of the *Act* when they failed to leave the rental unit in reasonably clean condition at the end of the tenancy. I therefore find that the Landlord is entitled to recover the \$283.50 charged for cleaning the carpet and the \$378.00 charged for general cleaning.

On the basis of the undisputed evidence, I find that the Tenants failed to comply with section 37(2) of the *Act* when they failed to return all of the keys to the rental unit at the end of the tenancy. I therefore find that the Landlord is entitled to recover the \$154.14 charged for re-keying the locks.

On the basis of the undisputed evidence, I find that the Tenants failed to comply with section 37(2) of the *Act* when they failed to replace all light bulbs that burned out during the tenancy. I therefore find that the Landlord is entitled to recover the \$55.04 paid to replace the light bulbs.

I find that the Landlord has submitted insufficient evidence to establish that the repairs made to the vacuum cleaner were not the result of normal wear and tear. In reaching this conclusion I was influenced by the absence of evidence, such as a statement from the technician who repaired the vacuum cleaner, that establishes the vacuum cleaner was damaged by abnormal use or absence of maintenance. As vacuums have motors that are subject to failure with normal, extended use, I find that some evidence should have been introduced to support the Landlord's claim that the vacuum was damaged by improper maintenance. I therefore dismiss the Landlord's claim for repairing the vacuum cleaner.

On the basis of the undisputed evidence, I find that the Tenants failed to comply with section 37(2) of the *Act* when they failed to repair the door, the closet shelves, and the microwave handle that were damaged during the tenancy. I therefore find that the Landlord is entitled to recover the \$335.00 charged for repairing these items, plus 5% GST, which is \$16.75, for a total of \$351.75.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the fee for filing this Application for Dispute Resolution.

Conclusion

The Landlord has established a monetary claim, in the amount of \$2,446.73, which is comprised of \$700.00 in unpaid rent, \$474.30 for water, \$1,222.43 for damage to the rental unit, and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to retain the Tenant's pet damage deposit and security deposit of \$1,800.00, in partial satisfaction of this claim.

Based on these determinations I grant the Landlord a monetary Order for the amount \$646.73. 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.

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: September 30, 2015

Residential Tenancy Branch

