



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC HOUSING MANAGEMENT COMMISSION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNDC, 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 for money owed or compensation for damage or loss; for a monetary Order for damage; and to recover the fee for filing this Application for Dispute Resolution.

The Agent for the Landlord stated that on June 09, 2015 the Application for Dispute Resolution, the Notice of Hearing, and evidence the Landlord submitted 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 cited two Canada Post tracking numbers to corroborate this statement.

The Agent for the Landlord stated that the service address was provided to the Landlord by the Tenants in May of 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 the Tenants did not appear at the hearing.

Issue(s) to be Decided

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

Background and Evidence

The Agent for the Landlord stated that:

- the tenancy began on December 15, 2013;
- the tenancy ended on September 30, 2014;
- a condition inspection report was completed at the start of the tenancy;
- in a letter dated September 02, 2014 the Landlord provided the Tenants with written notice that a "pre-move-out inspection" would be completed within five working days of receiving the Tenants' notice to vacate;
- a pre-move out condition inspection report was completed with the tenants on September 05, 2014;

- the Landlord did not provide the Tenants with written notice of a time for a final condition inspection report; and
- the Landlord completed a final condition inspection report on October 01, 2014, in the absence of the Tenants.

The Landlord is seeking compensation, in the amount of \$458.90, for cleaning the rental unit, which includes \$298.90 for disposing of garbage/personal property. The Landlord submitted photographs of the rental unit that were taken at the end of the tenancy, which the Agent for the Landlord stated represented the condition of the rental unit at the end of the tenancy.

The Landlord submitted an invoice from a hauling company for \$298.90, which the Agent for the Landlord was paid to remove the garbage/personal property. The Agent for the Landlord stated that employees of the Landlord spent 14 hours cleaning the rental unit at the end of the tenancy and that the Landlord is seeking compensation for 8 of those hours, at a rate of \$20.00 per hour.

The Landlord is seeking compensation, in the amount of \$908.02, for painting the rental unit. The Agent for the Landlord stated that the walls were scuffed in several places and that there were several holes in the walls, which necessitated the need to paint the rental unit.

The Landlord submitted a receipt for painting the rental unit, in the amount of \$1117.57.

The Agent for the Landlord stated the rental unit was newly painted at the start of the tenancy; the rental unit was occupied for 9 months; and the Landlord wants the Tenants to pay for 39/48 of the costs of repainting the unit.

Analysis

On the basis of the undisputed evidence, I find that the Landlord failed to comply with section 35(2) of the *Act* the Landlord because the Landlord did not provide the Tenants with at least 2 opportunities for a final inspection of the rental unit inspection in the manner prescribed by section 17 of the *Residential Tenancy Regulation*.

As the Landlord has not applied to retain the Tenants' security deposit in this Application for Dispute Resolution, there is no need for me to determine whether the Landlord's right to a claim against the security deposit is impacted by the Landlord's failure to comply with sections 35(2) and 36(1) of the *Act*.

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. On the basis of the testimony of the Agent for the Landlord and the photographs submitted in evidence, I find that the Landlord is entitled to compensation

for the cost of disposing of personal property/garbage and for 8 hours of cleaning, in the amount of \$458.90.

On the basis of the undisputed evidence, in particular the photographs submitted in 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 of the rental unit.

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 living room was painted at the beginning of the tenancy and was, therefore approximately 9 months old at the end of the tenancy. I therefore find that the paint in the living room has depreciated by 9/48, and that the Landlord is entitled to 39/48 of the cost of repainting the living room, which in these circumstances is \$908.02.

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

I find that the Landlord has established a monetary claim, in the amount of \$1,416.92, which is comprised of \$1,366.92 in damages and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.

Based on these determinations I grant the Landlord a monetary Order for the amount of \$1,416.92. 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: November 14, 2015

Residential Tenancy Branch

