



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

Landlord's application (filed May 21, 2015): MNDC, MNSD, FF

Tenant's application (filed May 26, 2015): MNSD, OLC; FF

Introduction

This Hearing was convened to consider cross applications. The Landlord filed an Application for Dispute Resolution seeking compensation for damage or loss under the Act, regulation or tenancy agreement; to apply the security deposit towards partial satisfaction of her monetary award; and to recover the cost of the filing fee from the Tenants.

The Tenant GM filed an Application for Dispute Resolution seeking return of the security deposit; an Order that the Landlord comply with the Act, regulation or tenancy agreement; and to recover the cost of the filing fee from the Landlord.

The parties gave affirmed testimony at the Hearing.

It was determined that the parties exchanged Notice of Hearing documents. It was also determined that the Landlord served the Tenants with copies of 26 photographs. The Tenants did not provide documentary evidence to the Residential Tenancy Branch or to each other.

The tenancy has ended and therefore, the Tenant's application for an Order that the Landlord comply with the Act, regulation or tenancy agreement is dismissed.

Issues to be Decided

1. Is the Landlord entitled to a monetary award for damage to the rental unit?
2. Is the Tenant GM entitled to return of the security deposit?

Background and Evidence

Neither party provided a copy of the tenancy agreement; however, the parties agreed on the following terms of the tenancy agreement:

- This tenancy began in June, 2014, and ended on May 1, 2015.
- The Tenants paid a security deposit in the amount of \$550.00 at the beginning of the tenancy.

The parties also agreed that the Tenants provided their forwarding address in writing to the Landlord on May 10, 2015.

The parties agreed that there was a Condition Inspection Report completed at the beginning of the tenancy. The Landlord testified that a Condition Inspection Report was completed at the end of the tenancy. The Tenants testified that they don't remember completing a Report at the end of the tenancy. No copy of any Condition Inspection Report was provided in evidence.

The Landlord gave the following testimony:

The Landlord testified that she arranged for a condition inspection with the Tenants to take place on April 31, 2015, after providing them with a list of items to be cleaned. She stated that when she arrived at the rental unit on April 31, nothing was done. The Landlord said that she returned on May 1, 2015, and that the Tenants had attempted to do some cleaning but that it was "not to my standards".

The Landlord stated that she offered to return \$100.00 of the \$550.00 security deposit, but that the Tenants declined her offer. She said that there were pet urine stains on the carpets and the walls and that it took several attempts to shampoo the carpets before they came clean. The Landlord testified that the Tenants did not clean behind the stove and the fridge and that there was "street dirt" on the patio.

The Landlord stated that the bathroom was not clean, none of the floors were clean, the kitchen cupboards stove and fridge were not clean, and the tracks of sliding door to the patio were filthy. She seeks to retain \$450.00 from the security deposit as compensation for her labour to clean the rental unit (~~30 hours @ \$15.00 per hour~~) **(15 hours @\$30.00 per hour)**.

The Landlord's photographs included pictures of the rental unit, which she stated were taken before and after she cleaned.

The Tenants gave the following testimony:

The Tenants testified that the walls and tops of the kitchen cabinets were dirty when they moved in. They stated that the Landlord did not pull out the stove and fridge at the beginning of the tenancy and that there was too much dirt to have been left by the Tenants after their short tenancy. The Tenants stated that there was an item depicted that appeared to be of Chinese origin and that it didn't belong to them.

The Tenants stated that they shampooed the carpets and cleaned the walls at the end of the tenancy. They stated that they left the rental unit in cleaner condition than it was when they moved in. The Tenants submitted that the dirt on the patio was superficial and they questioned the standard of cleaning that they should be held to.

The Tenants stated that they asked the Landlord for a breakdown of how she could justify 15 hours of cleaning, but she did not provide it. They suggested that the Landlord included the cost of fixing a drawer in the bathroom, which they did not break.

The Tenants questioned when the "before" photographs were taken and stated that there was no proof that they were taken at the end of their tenancy. The Tenants submitted that the Landlord provided insufficient evidence to prove her claim because she did not provide a copy of a Condition Inspection Report from the beginning or the end of the tenancy.

The Landlord gave the following reply:

The Landlord reiterated that the photographs were all taken at the end of the tenancy (before and after she did the cleaning).

Analysis

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

In a claim for compensation for damage or loss under the Act, regulation or tenancy agreement, the applicant has the burden of proof to establish their claim on the civil standard, the balance of probabilities.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulations or tenancy Agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results. Section 67 of the Act provides me with authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Condition Inspection Reports must be completed at the beginning and the end of a tenancy. The onus is on the Landlord to arrange for the Condition Inspections to take place. If the Tenants decline to take part in the inspection, the Landlord must prepare the Report on her own (after providing the Tenants with a Notice of Final Inspection Opportunity) and then provide the Tenants with a copy of the Report.

Section 21 of the regulation provides that a Condition Inspection Report, completed in accordance with Part 3 of the regulation, is evidence of the state of repair and condition of the rental unit on the date of the inspection, unless either party has a preponderance of evidence to the contrary.

In this case, the Landlord relies on her testimony and photographs, which the Tenants dispute. The Landlord did not provide a copy of the Condition Inspection Report at the beginning or the end of this tenancy, or a copy of a move-out Condition Inspection Report from the tenancy previous to this tenancy.

The Tenants did not dispute the Landlord's testimony that the original agreed-upon date for the condition inspection was April 31, 2015, and that they had not done the cleaning. I find, on the balance of probabilities, that the Tenants did some cleaning but that they were under pressure to finish in time for the inspection on May 1, 2015. However, I find that the Landlord did not provide sufficient evidence to support her claim with respect to ~~30~~ **15** hours of cleaning charges. The standard of cleanliness is a "reasonable standard". The "after" photographs provided by the Landlord show a meticulously clean rental unit, which I find to be beyond the "reasonable standard". For example, the grout in the kitchen floor has been scrubbed white when compared to the floor in the "before" pictures. For these reasons, pursuant to the provisions of Section 67 of the Act, I find that the Landlord is entitled to compensation in the equivalent of 10 hours' work, for a total of ~~\$150.00~~ **\$300.00**.

The Landlord has been partially successful in her Application and I find that she is entitled to recover half of the cost of the filing fee from the Tenants, in the sum of **\$25.00**.

The Landlord has been awarded a total of ~~\$175.00~~ **\$325.00**, which I hereby set-off against the \$550.00 security deposit pursuant to the provisions of Section 72 of the Act. I order that the Landlord return the balance, in the amount of ~~\$375.00~~ **\$225.00**, to the Tenants forthwith.

Are the Tenants entitled to return of the security deposit?

The security deposit has been dealt with under the Landlord's Application. It was not necessary for the Tenants to file their own Application for Dispute Resolution, and therefore I decline to award them the cost of the filing fee.

Conclusion

I hereby provide the Tenants with a Monetary Order in the amount of ~~\$375.00~~ **\$225.00** for service upon the Landlord. This represents the balance of the security deposit after deducting the Landlord's monetary award. This Order may be filed in the Provincial Court 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 02, 2015

CORRECTED: DECEMBER 8, 2015

Residential Tenancy Branch

