



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes For the landlord: MNSD, MND, FF
For the tenant: MNSD, FF

Introduction and Preliminary Matters

This hearing was convened as a result of the cross applications of the parties for dispute resolution under the Residential Tenancy Act (the "Act").

The landlord applied for authority to retain the tenants' security deposit, a monetary order for alleged damage by the tenants to the rental unit, and for recovery of the filing fee paid for this application.

The tenants applied for a return of their security deposit and for recovery of the filing fee paid for this application.

The landlord attended the telephone conference call hearing; the tenants did not attend. The landlord submitted that she was not aware the tenants had made an application as she was never served with their documents.

The landlord testified that she served each tenant with the Application for Dispute Resolution and Notice of Hearing by registered mail and by personal service by a constable on or about July 30, 2015.

Based upon the submissions of the landlord, I accept the tenants were served notice of this hearing and the landlord's application in a manner complying with section 89(1) of the Act and the hearing proceeded in the tenants' absence.

As to the tenants' application, in their absence to present their claim, pursuant to section 10.1 of the Rules, I dismiss the tenants' application, without leave to reapply.

The landlord was provided the opportunity to present her evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure ("Rules"); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to retain the tenants' security deposit, further monetary compensation, and for recovery of the filing fee paid for this application?

Background and Evidence

The written tenancy agreement and evidence submitted by the landlord shows that this tenancy began on February 1, 2013, monthly rent began at \$1200.00, was increased during the tenancy to \$1226.00, and that the tenants paid a security deposit of \$600.00, which has been retained by the landlord.

The landlord's monetary claim is as follows:

Kitchen cabinet repair	\$3372.71
Garburator repair	\$97.65
Water line repair	\$365.40
Wall and paint repair	\$370.00
Registered mail costs	\$11.34
Filing fee	\$50.00
Cleaning	\$315.00
Replace chandelier bulbs	\$16.62
Replace light bulbs	\$38.42
Strata fine	\$100.00

The landlord's additional relevant evidence included, but was not limited to, the condition inspection report, invoices and estimated costs for repairs and expenses, photographs of the rental unit, digital evidence supporting her claim, communication between the parties, and letters from the strata corporation.

The landlord submitted that the rental unit was brand new when the tenancy began and that the tenants committed a large amount of damage to the kitchen cabinets, plumbing and garburator, and walls, to the point there were gouges that required repair.

As to the kitchen cabinet and wall and paint repair, the landlord stated that she obtained quotes and will have the work done as soon as she is financially able.

The landlord submitted further that the tenants failed to reasonably clean the rental unit and did not replace the burnt out light bulbs.

The landlord submitted further that due to the extreme noise committed by the tenants, she incurred a strata fine.

Analysis

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that results. Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss. Under section 67 of the Act, an arbitrator may determine the amount of the damage or loss resulting from that party not complying with the Act, the regulations or a tenancy agreement, and order that party to pay compensation to the other party. The claiming party, the landlord in this case, has the burden of proof to substantiate their claim on a balance of probabilities.

As to the costs claimed by the landlord associated with cleaning and damage, Section 37 of the Act requires a tenant who is vacating a rental unit to leave the unit reasonably clean and undamaged except for reasonable wear and tear.

Kitchen cabinet repair-I find the landlord submitted sufficient, unopposed evidence that the tenants damaged the kitchen cabinet and that it will require an extensive repair as claimed. I find the estimated costs supplied by the landlord to be reasonable and I therefore find the landlord is entitled to a monetary award of \$3372.71.

Garburator repair; water line repair- I find the landlord submitted sufficient, unopposed evidence that the tenants damaged the garburator and water line which went beyond reasonable wear and tear. I find the landlord's costs to be reasonable and I therefore find the landlord is entitled to a monetary award of \$97.65 and \$365.40 respectively, as shown by the receipts.

Wall and paint repair-I find the landlord submitted sufficient, unopposed evidence that the tenants damaged the walls which went beyond reasonable wear and tear. I find the estimated costs supplied by the landlord to be reasonable and I therefore find the landlord is entitled to a monetary award of \$370.00.

Registered mail costs-The Act does not provide for the reimbursement of expenses related to disputes arising from tenancies other than the filing fee. This claim is dismissed.

Cleaning-I find the landlord submitted sufficient, unopposed evidence that the rental unit required cleaning as the tenants failed to leave the rental unit reasonably clean. I find the landlord's costs to be reasonable and I therefore find the landlord is entitled to a monetary award of \$315.00.

Replace chandelier bulbs; replace light bulbs- I find the landlord submitted sufficient, unopposed evidence that the tenants failed to replace the burnt-out light bulbs, for which Residential Tenancy Branch Policy Guideline #1 suggests the tenants are responsible. I find the costs claimed by the landlord to be reasonable and I therefore find the landlord is entitled to a monetary award of \$16.62 and \$38.42, respectively.

Strata fine-I find the landlord submitted sufficient, unopposed evidence to support that due to the actions of the tenants during this tenancy, she incurred a cost of \$100.00 in strata fines. I therefore find the landlord is entitled to a monetary award of \$100.00.

I grant the landlord recovery of her filing fee of \$50.00, due to her successful application and pursuant to section 72(1) of the Act.

Due to the above, I grant the landlord's application and find she is entitled to a total monetary award of \$4,400.80, comprised of kitchen cabinet repair of \$3372.71, garburator repair and water line repair of \$97.65 and \$365.40 respectively, wall and paint repair of \$370.00, cleaning of \$315.00, replacement of chandelier bulbs and light bulbs of \$16.62 and \$38.42, respectively, a strata fine in the amount of \$100.00 and her filing fee of \$50.00 paid for this application.

At the landlord's request, I allow her to retain the tenants' security deposit of \$600.00 in partial satisfaction of her monetary award of \$4,400.80.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due in the amount of \$3,800.80, which is enclosed with the landlord's Decision.

Should the tenants fail to pay the landlord this amount without delay after being served the order, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The tenants are advised that costs of such enforcement are subject to recovery from the tenants.

Conclusion

The landlord's application for monetary compensation is granted and she has been awarded a monetary order in the amount of \$3,800.80.

The tenants' application was dismissed, due to their failure to attend the hearing.

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: January 21, 2016

Residential Tenancy Branch

