



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ONE IN ALL SERVICES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNSD, MNDC

Introduction

This hearing convened as a result of a Landlord's application for dispute resolution wherein they sought a monetary Order for damage to the rental unit, compensation for damage or loss under the *Act*, regulation or tenancy agreement, authority to retain the Tenants' security deposit and recovery of the filing fee.

Only the Landlord's representative, S.F. appeared at the hearing. As the Tenants failed to attend, service of the Application materials was considered.

S.F. testified that he served the Tenant with the Notice of Dispute Resolution Hearing and Landlord's Application for Dispute Resolution by registered mail on October 16, 2015. Introduced in evidence was a copy of the receipt for the registered mailing as well as information from Canada Post confirming the documents were returned as unclaimed.

Failure or refusal to retrieve registered mail does not negate service. Pursuant to section 90 of the *Residential Tenancy Act*, documents served by registered mail are deemed served 5 days later. Accordingly, I find the Tenants were served as of October 21, 2016 and I proceeded in their absence.

Issues to be Decided

1. Is the Landlord entitled to monetary compensation from the Tenants?
2. What should happen with the Tenants' security deposit?
3. Is the Landlord entitled to recover the filing fee?

Background and Evidence

Introduced in evidence was a copy of the residential tenancy agreement which indicated as follows. The tenancy began on November 1, 2014 for a fixed one year term following which it was to continue on a month to month basis or further fixed term as agreed upon by the parties. Monthly rent was payable in the amount of \$1,170.00 and the Tenants paid a security deposit of \$585.00.

The tenancy ended on September 30, 2015. A copy of the move in and move out condition inspection report was introduced in evidence and which confirmed the condition of the rental unit at the end of the tenancy. The Tenant, S.B. also signed the move out condition inspection to confirm her agreement that the report fairly represented the condition of the rental unit. On this document the Tenant also agreed the Landlord could retain the security deposit of \$585.00 towards the agreed upon costs of \$1,330.00.

Also introduced in evidence was a copy of the Landlord's Monetary Orders Worksheet wherein he sought compensation for the following:

Dry cleaning of drapes	\$196.35
Suite cleaning	\$150.00
Miscellaneous costs to remove Tenants' furniture	\$90.00
Repair of walls and painting	\$790.00
Pictures printed for arbitration	\$63.65
Filing fee	\$50.00
Replacement of light bulbs	\$10.00
TOTAL CLAIMED BY LANDLORD	\$1,350.00

Notably, this amount is less than the amount agreed to by the Tenant when consideration is made for the filing fee.

The Landlord testified that although the Tenant S.B. confirmed they would pay the costs to repair and clean the rental unit, when the Landlord tried to follow up with her father, P.B. (the other Tenant) P.B. failed or refused to pay the amounts agreed upon.

Analysis

In a claim for damage or loss under section 67 of the *Act* or the tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on

the civil standard, that is, a balance of probabilities. In this case, the Landlord has the burden of proof to prove their claim.

Section 7(1) of the Act provides that if a Landlord or Tenant does not comply with the Act, regulation or tenancy agreement, the non-complying party must compensate the other for damage or loss that results.

The condition in which a Tenant should leave the rental unit at the end of the tenancy is defined in Part 2 of the Act as follows:

Leaving the rental unit at the end of a tenancy

37 (2) When a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

The undisputed testimony of the Landlord was that the rental unit was not cleaned and was left damaged at the end of the tenancy. The move out condition inspection report confirms this, as do the photos submitted by the Landlord. The Tenant, S.B., noted her agreement on the move out condition inspection report. Neither of the Tenants appeared at the hearing to dispute the Landlord's claims nor did they submit any evidence.

After careful consideration of the evidence and the Landlord's undisputed testimony, as well as noting the Tenant's agreement with the amounts claimed on the move out condition inspection report, I find the Landlords has proven their monetary claims and I award them the following:

Dry cleaning of drapes	\$196.35
Suite cleaning	\$150.00
Miscellaneous costs to remove Tenants' furniture	\$90.00
Repair of walls and painting	\$790.00
Filing fee	\$50.00
Replacement of light bulbs	\$10.00

TOTAL	\$1,286.35
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I have not awarded the Landlord compensation for the cost or reproducing photos for the hearing. While those photos were useful, the associated cost to print them is not recoverable under the *Residential Tenancy Act*.

The Landlord is permitted to retain the Tenants' security deposit of \$585.00 and is granted a Monetary Order for the balance due in the amount of **\$701.35**. This Monetary Order must be served on the Tenants and may be filed and enforced in the B.C. Provincial Court (Small Claims Division).

Conclusion

The Landlord is entitled to be compensated in the amount of \$1,286.35, may apply the Tenants' \$585.00 security deposit against this amount and is awarded a Monetary Order for the balance due in the amount of **\$701.35**.

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: May 03, 2016

Residential Tenancy Branch