



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HOMELIFE GLENAYRE REALTY CHILLIWACK LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MND MNDC MNSD FF

Introduction:

Both parties attended the hearing and the tenant agreed the Application of the landlord was served by registered mail. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) A monetary order pursuant to Sections 7, and 67 for damages;
- b) To retain the security deposit to offset the amount owing; and
- c) An order to recover the filing fee pursuant to Section 72.

Issue(s) to be Decided:

Has the landlord has proved on a balance of probabilities that the tenant damaged the property, that it was beyond reasonable wear and tear and the cost of repair? Is the landlord entitled to recover the filing fee?

Background and Evidence:

The landlord and one tenant who was not occupying the unit at the end attended the hearing and were given opportunity to be heard, to present evidence and to make submissions. It is undisputed that the tenancy commenced March 1, 2015 on a fixed term to February 29, 2016. Monthly rent was \$1800 plus hydro, gas, water and garbage and a security deposit of \$900 and pet damage deposit of \$900 was paid March 1, 2015. The last tenant vacated on February 29, 2016 and provided their forwarding address in writing on that date. They received one free month's rent pursuant to a section 49 Notice to End Tenancy.

The premises are a house that was shared by 3 tenants. A Condition Inspection Report was done at move-in and move-out. The tenant attending the hearing said she signed the move-in report but a male tenant had done the move-out report with the landlord and refused to sign. The move-in report shows the premises as clean and undamaged except for some rough touch ups in the entry, some chips in the railing, some nail holes in walls and trim, scratches in the kitchen countertop and some dings and scuffs. On move-out, the unit is noted as dirty in most rooms, garbage left, a closet door not

working, counter top edge broken, trim broken, dents in the door, and doors damaged by a pet.

The landlord claims as follows:

1. \$116.13 for 3 days unable to be occupied due to repairs needed. The tenant agreed to that.
2. \$107.42 for the final utility bill owed. The tenant agreed.
3. \$280.98 for carpet cleaning. The male tenant had intended to get the carpets cleaned but did not arrange for it before the vacancy date.
4. \$196.88 for general cleaning. The tenant said this seemed high as she can do it cheaper.
5. \$840 for repairs and garbage removal. The tenant objected that this was a lump sum bill by a contractor and she could have bought the parts for about \$80-\$90. The landlord said that this was a reputable firm, available at the time and in her experience as a property manager, the bill was not unreasonable for the scope of work. The landlord pointed out the tenant had had an opportunity to come and fix the damage but they did not. She allowed them up to noon on the day following the end of the tenancy but nothing was done. She said that drywall repairs require several visits when done properly. The tenant said there was damage from the previous tenant.
6. \$300 for the management fee to coordinate the repairs.

The tenant provided no documents to dispute the claim. The landlord provided the tenancy agreement, photographs and invoices to support the amounts claimed and the move-in and move-out reports. On the basis of the documentary and solemnly sworn evidence, a decision has been reached.

Analysis

Awards for compensation are provided in sections 7 and 67 of the *Act*. Accordingly, an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

Director's orders: compensation for damage or loss

67 Without limiting the general authority in section 62 (3) [*director's authority respecting dispute resolution proceedings*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party. Section 67 of the Act does *not* give the director the authority to order a respondent to pay compensation to the applicant if damage or loss is not the result of the respondent's non-compliance with the Act, the regulations or a tenancy agreement.

The onus is on the landlord to prove on the balance of probabilities that there is damage caused by this tenant, that it is beyond reasonable wear and tear and the cost to cure the damage. Section 37(2) of the Act provides when a tenant moves out, they must leave the unit reasonably clean and undamaged except for reasonable wear and tear. I find the unit was left very dirty and the landlord is entitled to cleaning costs for this violation of the Act and the tenancy agreement. I find them entitled to recover \$280.98 for carpet cleaning and \$196.88 for general cleaning. Although the female tenant said she could have done it cheaper, she did not do it before the tenancy ended so I find the landlord entitled to their costs.

I find the landlord also entitled to recover costs agreed by the tenant for \$116.13 for the 3 days needed for repair, \$107.42 for the utility bills and \$300 for the management fee for coordinating the repairs.

I find the landlord's evidence credible that this tenant caused damage but I find according to the move-in report that there were scratches and dings before the tenant moved in. In respect to the \$840 charged by the contractor, I find at least some of this was used to paint doors and jambs such as in bedroom 6, bathroom 3 and the front door which shows some damage at move-in. I find insufficient evidence that all the repairs were caused by actions of these tenants. The overall paint was noted as having rough spots and chips at move-in which supports the tenant's statement that it was not new at move-in and had been damaged by other tenants. However, there was no evidence on the move-in report of garbage left behind as the tenant alleges. Since the quote is not broken down, I find it reasonable to deduct \$200 from this quote to allow for the age of the paint and other damage which may have been caused by previous tenants. I find the landlord entitled to recover \$640 for the contractor's work of repairing, patching, painting some doors, door jambs, a wall, door casing and reattaching a pocket door and disposing of garbage. I find some damage was caused by the pets.

Conclusion:

I find the landlord is entitled to a monetary order as calculated below and to retain the security deposit with interest to offset the amount owing. I find the landlord is also entitled to recover filing fees paid for this application.

Calculation of Monetary Award:

Two days rent	116.13
Utilities owed	107.42
Carpet cleaning	280.98
Housecleaning	196.88
Allowance for repairs, painting, garbage removal	640.00
Management fee for coordination	300.00
Filing fee	100.00
Less security and pet damage deposits	-1800.00
Balance in refund to Tenant	-58.59

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: June 16, 2016

Residential Tenancy Branch