



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

Background, Evidence

The landlords' testimony is as follows. The tenancy began on November 2014 and ended on April 30, 2016. The tenants were obligated to pay \$1800.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$900.00 security deposit.

The landlord stated that there is a signed tenancy agreement that reflects that the tenants are responsible for 50% of the utilities. The landlord stated that the tenants did not pay their share of the gas bill and electricity bill. The landlord stated that on January 10, 2016 the house alarm was "set off". The landlord stated that they had to access the tenants unit to turn the alarm off but were denied access by the tenant resulting in a by-law fine being issued by the City of Surrey. The landlord stated that the tenants did not shampoo the carpets at move out as required and seek to recover their costs for doing that. The landlord stated that the tenants "broke the kitchen tap" resulting in a \$400.00 plumbing bill to repair the damage but also a \$700.00 electrical bill as the water poured down into the basement suite causing electrical damage. The landlord stated that they seek compensation for all of the above items.

The landlord is applying for the following:

1.	ABC Electrical Services	\$700.00
2.	City of Surrey	\$123.00
3.	Carpet Cleaning	\$300.00
4.	Fortis B.C.	\$85.00
5.	B.C. Hydro	\$450.00
6.	Amen Plumbing	\$400.00
7.	Filing Fee	\$100.00
	Total	\$2158.00

The tenant gave the following testimony. The tenant stated that she paid the landlord for the utilities in cash and had the landlord sign a document to reflect that. A.V. gave testimony that she witnessed the tenant paying the landlord cash for the utilities on April 23, 2016. The tenant stated that she had nothing to do with the false alarm as there are no breakers or switches to turn off in her unit. The tenant stated that the landlord had issues with the alarm all day and that she allowed them access five times during the night from 11:00 pm – 12:30 a.m. to resolve the matter. The tenant stated that the landlord was fiddling with the electrical and caused the alarm to go off and on throughout the day and that she should not be held responsible for something she had no hand in.

The tenant stated that she did shampoo the carpets and provided a receipt to support that. The tenant stated that she did not break the taps in the kitchen and that it was the water supply tube that broke. The tenant stated that the landlord is responsible to maintain the property in working order and that she wasn't even home when the leak occurred. The tenant stated that the taps were never broken and that the landlord gave incorrect information during the hearing. The tenant stated she doesn't know anything about electrical repairs as those repairs were conducted in the basement where the landlord lived. The tenant stated that even if the electrical damage was from the water leak, it's still the landlords' responsibility to repair it as she did not break any taps. The tenant stated that the landlord did not provide detailed documentation for this hearing and that they have failed to prove any of their claims.

Analysis

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the landlord's claim and my findings around each are set out below.

Section 67 of the Act states that when a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. **To prove a loss the applicant must satisfy all four of the following four elements:**

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

I address the landlord's claims and my findings around each as follows.

1. Plumbing repair - \$400.00. The landlord stated that he had a receipt but did not submit it for this hearing. The tenant adamantly denies causing any damage to the kitchen faucet or causing a water leak. Based on the insufficient evidence before me and on a balance of probabilities, I dismiss this portion of the landlords' claim.
2. ABC Electrical \$700.00. The landlord submitted an invoice however the invoice reflects that the electrical work was conducted in the basement. The invoice does not specify what type of repair was done or that it was due to a water leak. Due to the very vague nature of the invoice, I give it little weight. Based on the insufficient evidence before me and on a balance of probabilities, I dismiss this portion of the landlords' application.
3. City of Surrey \$123.00. The by-law fine refers to the basement unit and not the subject unit. In addition, the landlord has not produced the fire and police reports that he says supports this claim. Based on the insufficient evidence before me and on a balance of probabilities, I dismiss this portion of the landlords' application.
4. Fortis B.C. \$85.00. The landlord did not provide a copy of the tenancy agreement to show that the tenant is responsible for 50% of the utilities. In addition, the landlord did not provide a copy of the bill to support the amount he was seeking. The tenant provided a witness and disputing documentary evidence that she did pay. Based on the insufficient evidence before me and on a balance of probabilities, I dismiss this portion of the landlords' application.

5. B.C. Hydro \$450.00. The landlord did not provide a copy of the tenancy agreement to show that the tenant is responsible for 50% of the utilities. The tenant provided a witness and disputing documentary evidence that she did pay. Based on the insufficient evidence before me and on a balance of probabilities, I dismiss this portion of the landlords' application.
6. Carpet Cleaning \$300.00. The landlord stated that the tenants did not shampoo the carpets at move out. The tenant provided a receipt to show that the carpets were professionally cleaned. In addition, the tenant provided the condition inspection report that is absent any comment about dirty carpets at move out. Based on the insufficient evidence before me and on a balance of probabilities, I dismiss this portion of the landlords' application.

The landlord has not been successful in their application. It is worth noting that the landlord made reference to the tenancy agreement, plumbing bill, Fortis BC bill, fire department report, and police reports however none of those documents were submitted for this hearing. The tenant provided a copy of the condition inspection reports for this hearing.

Conclusion

The landlords' application is dismissed in its entirety. The landlord is to return the security deposit of \$900.00 to the tenants. I grant tenants an order under section 67 for the balance due of \$900.00. This order may be filed in the 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: August 03, 2016

Residential Tenancy Branch

