



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

For the tenant – MNDC, MNSD, F

For the landlords – MND, FF

Introduction

This hearing was convened by way of conference call in response to both parties' applications for Dispute Resolution. The tenant applied for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; for a Monetary Order to recover the security deposit; and to recover the filing fee from the landlords for the cost of this application. The landlords applied for a Monetary Order for damage to the unit, site or property; and to recover the filing fee from the tenant for the cost of this application.

The hearing went ahead as scheduled and the landlords dialed into the conference call. The phone line remained open the duration of the hearing; however, the tenant did not dial into the call during this time. Based on the above I find that the tenant has failed to present the merits of his application and the application is dismissed without leave to reapply.

Service of the hearing documents, by the landlords to the tenant, was done in accordance with section 89 of the *Act*; served by registered mail on February 20, 2016. Canada Post tracking numbers were provided by the landlords in documentary evidence. The tenant was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

Are the landlords entitled to a Monetary Order for damage to the unit, site or property?

Background and Evidence

The landlords testified that this tenancy started on May 01, 2010 for a fixed term of six months, thereafter the tenancy continued as a month to month tenancy. The tenancy ended on December 29, 2015. Rent for this unit was \$950.00 per month due on the 1st of each month and the tenant paid a security deposit of \$425.00 on April 04, 2010.

The landlords testified that a move in inspection was done at the start of the tenancy and photographs were taken of the unit. The tenant was given two opportunities to attend this inspection but he stated that he did not need to attend as the unit and everything in it was brand new. The landlord agreed that they did not fill in a condition inspection report and that they received the tenant's forwarding address by registered mail on January 16, 2016. The landlords have not filed an application to keep the security deposit and filed their application for damages on February 19, 2016.

The landlord testified that the tenant has caused considerable damage to the carpet in the living room and bedroom. The tenant kept a large dog and there are pulls and tears over the carpet, burn marks on the carpet and dog urine stains in both rooms. This carpet was new in May 2010.

The landlords testified that both the carpet and the pad had to be replaced due to the damage and because the pet urine had soaked through the carpet and pad and could not be cleaned. The landlords seek to recover \$1,232.43 for the cost of the new carpet and pad and \$449.82 for the removal and disposal of the old carpet and the installation of the new carpet.

The landlords testified that when the tenant moved into the unit he requested a washer/dryer be installed. The landlords agreed to purchase these items and the tenant agreed to install them in lieu of one month's rent. When the tenant installed the washer/dryer he cut a large hole out of the drywall and a large hole in the ceiling to vent the dryer. This work was supposed to have been made good; however, the tenant never fixed it. At the end of the tenancy the landlords asked the tenant if he was going to repair the damaged walls and ceiling and the tenant refused to do so. The landlords gave the tenant a further seven days to make these repairs but they were never made. The landlords seek to recover the cost for the materials to repair the wall and ceiling of \$206.61 and as they did the repair work themselves they have not charged their labour to the tenant.

The landlords testified that when the tenant fitted the washer/dryer he removed the landlords' vanity located in that area to the garage. Sometime later the tenant contacted the landlord to ask if he could store his bike in the garage and that he would clear out the garage. The landlord agreed the tenant could throw some garbage away but this would not have included disposing of the vanity. The tenant did dispose of the vanity without the landlords' permission and therefore the landlords had to purchase a new vanity when they removed the washer/dryer after the tenant vacated the unit. The landlords seek to recover \$334.73 for the costs incurred for the new vanity.

The landlords have provided photographic evidence showing the condition of the unit at the start and end of the tenancy along with digital evidence. The landlords have provided the invoices and receipts for the amounts claimed.

Analysis

After careful consideration of the testimony and documentary evidence before me and on a balance of probabilities I find as follows:

The carpet was in a new condition at the start of the tenancy in 2010. At the end of the tenancy it is evident that there is significant damage to the carpet with pulls tears, burns and pet urine stains. Consequently, I find the landlords are entitled to some monetary award for the cost of the new carpet and pad and the installation of that carpet; however, the carpet was five and a half years old at the end of the tenancy and I must make some deductions from the landlords' claim to allow for depreciation of the carpet. To this end I refer the parties to the Residential Tenancy Policy Guidelines # 40 which details the useful life of building elements and states, in part, that the Arbitrator may consider the age of the item at the time of replacement and the useful life of the item when calculating the tenant's responsibility for the cost or replacement. As the carpet was halfway through its considered useful life then I must deduct 50 percent of the landlords' claim for carpet replacement. The landlords are therefore entitled to recover the amount of **\$616.21** for the replacement carpet and pad and **\$449.82** for the removal and disposal of the old carpet and the installation of the new carpet.

With regard to the landlords' claim for the cost of the materials to repair the wall; based on the undisputed evidence before me I find there was an arrangement in place for the tenant to install the washer/dryer. The landlords' photographic evidence shows this area was left uncompleted with holes in the drywall and ceiling and a large mess was made of the walls during the installation of the water pipes and/or waste. This was not repaired by the tenant although he received a month's free rent to install the washer /dryer and any reasonable person could interpret this to be that the tenant was responsible to make good this installation which he clearly failed to do. Consequently, I find in favor of the landlords' claim to recover the cost for the materials used to make these repairs of **\$206.61**.

With regard to the landlords' claim for a replacement vanity; the vanity was removed by the tenant to make room for the washer/dryer. This vanity was then stored in the garage and later disposed of by the tenant without the landlords express permission to do so. Consequently, the landlords had to replace the vanity at the end of the tenancy when they took out the washer/dryer. As the vanity should still have been in an as new

condition at the end of the tenancy as it should have been responsibly stored by the tenant then no deductions have been made for depreciation. The landlords have therefore established a claim to recover the replacement costs of the vanity of **\$334.73**.

As the landlords still held the tenant's security deposit of **\$425.00** in trust I Order the landlords to retain the security deposit in partial satisfaction of their monetary claim pursuant to s. 72 of the Act which states:

72 (1) The director may order payment or repayment of a fee under section 59 (2) (c) [starting proceedings] or 79 (3) (b) [application for review of director's decision] by one party to a dispute resolution proceeding to another party or to the director.

(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(a) in the case of payment from a landlord to a tenant, from any rent due to the landlord, and

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

I further find the landlords are entitled to recover the filing fee of **\$100.00** from the tenant pursuant to s. 72(1) of the Act. A Monetary Order has been issued to the landlords for the following amounts:

Replacement carpet and pad	\$616.21
Installation of carpet	\$449.82
Repairs to wall and ceiling	\$206.61
Replacement vanity	\$334.73
Filing fee	\$100.00
Less security deposit	(-\$425.00)
Total amount due to the landlords	\$1,282.37

Conclusion

The tenant's application is dismissed without leave to reapply.

I HEREBY FIND in partial favor of the landlords' monetary claim. A copy of the landlords' decision will be accompanied by a Monetary Order for **\$1,282.37** pursuant to s. 67 and 72(1) of the *Act*. The Order must be served on the respondent. Should the respondent fail to comply with the Order, the Order may be enforced through the Provincial (Small Claims) Court of British Columbia 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: September 01, 2016

Residential Tenancy Branch