



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the tenants for the cost of this application. The landlord agreed that her claim is actually for damage to the unit site or property.

The male tenant and the landlord attended the conference call hearing, and were given the opportunity to be heard, to present evidence and to make submissions under oath. The landlord and tenants provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The tenants' evidence was provided late; however, the landlord raised no objections to this evidence being included in the hearing and considered by the Arbitrator. The parties confirmed receipt of evidence. I have reviewed all oral and written evidence before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the landlord entitled to a Monetary Order for damage to the rental unit?

Background and Evidence

The parties agreed that this tenancy started on September 01, 2014 for a fixed term for one year and thereafter continued as a month to month tenancy. Rent for this unit was \$1,600.00 per month due on the 1st of each month. The tenants paid a security deposit of \$800.00 and a pet deposit of \$800.00 on August 12, 2014. The security and pet deposit have been returned to the tenants. The parties agreed that the landlord did not complete a move in condition inspection report at the start of the tenancy. The tenants provided a forwarding address in writing and by email on June 21, 2016.

The landlord testified that the tenants failed to leave the carpets in the unit reasonable clean. The tenants had cleaned the carpets themselves but they were still unclean. The landlord referred to her photographic evidence and an email from the landlord's carpet cleaner who has written that he did a visual inspection of the carpets and in his professional opinion the carpets were not cleaned properly. The carpets were oily, dirty and had visible traffic dirt. The stairs appeared to have been cleaned but not properly and had visible dirty streaks and lines.

The landlord testified that the previous tenants had the carpets professionally cleaned at the end of their tenancy just prior to these tenants moving in and they provided her carpet cleaning receipt to the landlord. The landlord therefore seeks to recover the cost incurred to have the carpets cleaned again of \$183.75.

The landlord testified that the tenants failed to leave the windows or tracks in a clean condition. The landlord brought someone in to clean the inside of the windows including the tracks which were left extremely dirty. This person also cleaned the blinds which were also left extremely dirty. The landlord referred to her photographic evidence and the invoice from that cleaner. The landlord seeks to recover the cost incurred of \$78.75.

The landlord testified that the tenants also failed to leave the rental unit reasonably clean. The landlord did have a cleaner in for three hours but is not seeking to recover that cost; however, the landlord and her husband also cleaned the unit for eight hours and seek to recover \$25.00 an hour to the amount of \$200.00. The landlord referred to

her photographic evidence showing the unclean areas of the unit such as the ceiling fan, the vents, inside the floor vents which were full of dust and dog hair, the tub plug was totally clogged with dog hair, the baseboards had not been cleaned and were very dusty, the inside of the washer had a dark brown staining which had to be bleached out; the inside of the fireplace was left dusty, and other areas of the floor were left dusty and full of dog hair.

The landlord testified as part of this claim for cleaning they spent one hour of the eight hours removing some of the abandoned belongings of the tenants to the dump. This included plastic bins, two bar stools, a plastic chair, a stair gate, a dolly, a wheel barrow and other items. The landlord agreed that the bins may have belonged to the previous tenant. This tenant asked the landlord if she wanted the bar stools but she declined the offer but they were left anyways.

The tenant testified that they did hire a carpet cleaning machine and provided the receipt to the landlord. The tenant referred to an email sent by the landlord on August 03, 2016 detailing some of the other cleaning required but she did not mention the carpets. If the landlord had issues with the carpets she could have mentioned it. The tenant disputed that the carpets were not left clean. The previous tenants did not move out until around 4 pm on the day the tenants moved in and so would not have had time to clean the carpets between 4.00 p.m. and 5.00 p.m. when the tenants moved in. The tenant questions whether the previous tenant had professionally cleaned the carpets as there was some staining on them when the tenants moved in.

The tenant disputed the landlord's claim for window cleaning. The tenant testified that he did not inspect the windows or tracks before he moved out but was told that they had been cleaned. The tenant testified that the house is on the corner of a busy intersection and the windows and tracks could have become this dirty in the three days after the tenants had moved out.

The tenant disputed the landlord's claim for cleaning. The landlord claimed her cleaner came on the long week end yet the landlords email was sent after the long weekend. The tenant agrees that it is possible after looking at the landlord's photographic evidence that they did miss some areas of cleaning. At the end of the tenancy the landlord did a walkthrough while the tenants still had some furnishings in the unit and could have mentioned that extra cleaning was required so the tenants could have remedied this.

The tenant disputed that any of the belongings shown in the landlord's photographic evidence belonged to them. The tenant testified that all these items were left at the unit by the previous tenants and as they did not belong to the tenants they could not remove these when they moved out.

The landlord's final submissions – the landlord testified that the carpets are only on the upper floor. The previous tenants had cleaned them and then moved out as they had provided a professional carpet cleaning receipt for August, 2014 to the landlord. The tenants also agreed in their condition inspection report addendum that these carpets had been cleaned as the tenant writes that the carpets were clean when he moved in but they had stains that will reappear when the carpet is walked on. The landlord testified that she did not mention the carpets to the tenants as she was still waiting for female tenant to provide a receipt for the carpet cleaning.

The tenant's final submissions – the tenant testified that the blinds were dirty at the start of the tenancy as shown on his condition inspection report addendum. The tenant testified that over the two years of their tenancy they never cleaned the blinds except dusting them and were under the impression that the blind cleaning was the landlord's responsibility.

The parties declined the opportunity to cross examine the other party.

Analysis

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

I have applied a test used for damage or loss claims to determine if the claimant has met the burden of proof in this matter:

- Proof that the damage or loss exists;
- Proof that this damage or loss happened solely because of the actions or neglect of the respondent in violation of the *Act* or agreement;
- Verification of the actual amount required to compensate for the claimed loss or to rectify the damage;
- Proof that the claimant followed S. 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage.

In this instance the burden of proof is on the claimant to prove the existence of the damage or loss and that it stemmed directly from a violation of the agreement or contravention of the *Act* on the part of the respondent. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. Finally it must be proven that the claimant did everything possible to address the situation and to mitigate the damage or losses that were incurred.

Carpet cleaning - With this test in mind I have reviewed the photographic evidence provided by the landlord and the move in condition inspection report and addendum filled in and provided by the tenants. It is the landlord's responsibility to complete a move in condition inspection report at the start and end of the tenancy. The purpose of these reports is to document the condition of the unit at the start of the tenancy to identify any damage or cleaning required at the end of the tenancy; however I find the tenants are still responsible to leave the carpets in a reasonably clean condition at the

end of the tenancy and although there is no requirement under the *Act* to have carpets professionally cleaned they must still be reasonably clean. While I accept that the carpets may have had some pre-existing staining from previous tenancies I am also satisfied that the previous tenants did have the carpets cleaned at the end of their tenancy. Therefore, from the corroborating evidence before me including that from the landlord's carpet cleaner I find the carpets were not left reasonably clean. I therefore find in favour of the landlord's claim for carpet cleaning to an amount of **\$183.75**.

Window cleaning - I am satisfied from the evidence before me that the windows and tracks were not cleaned at the end of the tenancy. Clearly there is a buildup of dust like staining on the tracks which I find highly unlikely to have occurred three days after the tenants vacated. I find I prefer the evidence of the landlord and therefore I find in favour of the landlord's claim for the amount of **\$78.75**.

General cleaning- I am satisfied from the evidence before me that the tenants failed to leave the rental unit in a reasonably clean condition pursuant to s. 32 of the *Act*. While I accept that areas of the unit had been cleaned, clearly there were many areas that had not been cleaned. I am not satisfied from the evidence before me that the belongings shown in the landlord's photographic evince belonged to the tenants. I must therefore adjust the landlord's monetary claim to reduce the amount that would compensate the landlord for the time taken to remove these belongings to the dump. I therefore find the landlord is entitled to recover the amount of **\$175.00** for cleaning only.

Filing fee - As the landlord claim has merit I find the landlord is entitled to recover the filing fee of **\$100.00** from the tenants pursuant to s. 72(91) of the *Act*. A Monetary Order has been issued to the landlord, pursuant to s. 67 and 72(1) of the *Act*, for the following amount:

Carpet cleaning	\$183.75
Window and track cleaning	\$78.75
General cleaning	\$175.00

Subtotal	\$437.50
Plus filing fee	\$100.00
Total amount due to the landlord	\$537.50

Conclusion

I HEREBY FIND in partial favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$537.50**. The Order must be served on the respondents. Should the respondents 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: February 16, 2017

Residential Tenancy Branch