Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MND; MNR; MNSD; MNDC

Introduction

This is the Landlords' Application for Dispute Resolution seeking a monetary award for unpaid utilities; the cost of carpet cleaning; the cost of repairing a garburator; and the cost of gardening services. The Landlords also seek to apply the security deposit towards their monetary award.

Both parties signed into the teleconference and gave affirmed testimony. It was established that the Tenants received the Landlord's Notice of Hearing documents and documentary evidence on November 15, 2016, along with a second package of documentary evidence which was sent by registered mail on April 26, 2017. The Tenants did not provide documentary or electronic evidence.

Issue(s) to be Decided

Are the Landlords entitled to a monetary award for damages and unpaid utilities?

Background and Evidence

This tenancy began on July 19, 2012. At a previous Hearing, the Landlords were granted an Order of Possession effective October 16, 2016. The Tenants moved out of the rental unit on October 31, 2016.

The Landlords are holding a security deposit in the amount of $700.00 and a pet damage deposit in the amount of $300.00. The Tenants had a dog and a cat when they were living in the rental unit.

The Landlords gave the following testimony:

The Landlords testified that the Tenants did not maintain the garden at the rental property, contrary to the tenancy agreement addendum. In addition, the Landlords stated that the Tenants "drastically changed the layout of the garden" without the Landlords' permission. The Landlord stated that they seek compensation for "bringing the garden back to its original state".

The Landlords submitted that they hired a gardener to clean up the weeds, re-seed the lawn, tidy up the borders and replant bulbs and perennials. The Landlords provided a copy of the gardener's invoice in the amount of $569.70, which includes $450.00 for labour and $119.70 for materials. The Landlords also provided photographs in evidence, taken before and after the gardening was completed.

The Landlords testified that the garburator was in need of repairs, which cost the Landlords $125.00. The Landlords stated that "something was stuck" in the garburator causing it to be "noisy". The Landlords stated that the garburator was approximately 15 years old. In support of this portion of their claim, they referred to the Condition Inspection Report that was completed at the end of the tenancy.

The Landlords stated that the Tenants still owe $35.64 for their share of utilities. A copy of the utility bill was provided in evidence.

The Landlords testified that the Tenants did not have the carpets professionally cleaned at the end of the tenancy, contrary to a term in the tenancy agreement. The Landlords provided a copy of an invoice from a professional carpet cleaner, in the amount of $155.00, which they seek to recover from the Tenants.

<u>The Tenants gave the following testimony:</u>

The Tenants stated that they do not dispute the Landlords' claim in the amount of $35.64 for their share of utilities.

The Tenants testified that they had the carpets professionally cleaned after they had a baby in December, 2015. They stated that the carpets were old and that they had rented a commercial machine to clean the carpets, but that the Landlords told them not to clean it.

The Tenants stated that the garden "was grass" in 2012, so they asked the Landlords if they could plant a vegetable garden and they said "yes". The Tenants stated that they have emails between them and the Landlords in this respect.

The Tenants submitted that they have a “difference of opinion” with the Landlords with respect to the level of maintenance of the garden. The Tenants submitted that the Landlords have “high standards”. They also submitted that the gardener put in additional fencing and statues that were not there when the Tenants moved in.

The Tenants testified that the garburator stopped working in February, 2015, and that it made the same sound when they moved into the rental unit. The Tenants stated that they made compost and that they did not use the garburator regularly. They submitted that it was the Landlords’ responsibility to maintain appliances.

The Tenants stated that they believe the Landlords are “reacting because we told the City that the [rental unit] was illegal”.

The Landlords gave the following reply:

The Landlords told the Tenants not to steam clean the carpets because they had never been steam cleaned due to the chance of stretching the carpets. They stated that for this reason, they only ever used a dry method for cleaning the carpets and that they were always professionally cleaned.

The Landlords reiterated that the Tenants did not ask permission to put in a vegetable garden.

Analysis

There is no dispute with respect to the unpaid utilities and therefore this portion of the Landlords’ claim is allowed in the amount of **$35.64**.

The tenancy agreement provides:

> “All carpeting will be professionally cleaned at the commencement of the tenancy; the Tenant is required to pay for professional cleaning at termination.”

Generally, tenants are expected to deep clean or shampoo carpets at reasonable intervals to maintain reasonable standards of cleanliness. The benchmark is at least once a year.

Residential Tenancy Guideline 1 provides, in part:

> The tenant may be expected to steam clean or shampoo the carpets at the end of a tenancy, regardless of the length of tenancy, if he or she, or another occupant, has had pets which were not caged or if he or she smoked in the premises.

In this case, the Tenants had pets and would be expected to clean the carpets at the end of the tenancy. The tenancy agreement required such cleaning to be done professionally. I do not find a commercial steam cleaner to be "professional cleaning". I find that the amount claimed by the Landlords is reasonable for "three rooms, hallway and stairs".

For the reasons provided above, I allow the Landlords' claim in the amount of **$155.00** for professionally cleaning the carpets at the end of the tenancy.

I find that the Landlord did not provide sufficient evidence that the Tenants were responsible for breaking the garburator, which was 15 years old. Residential Tenancy Branch Policy Guideline 40 provides guidance with respect to the "useful life" of materials. Although garburators are not specifically listed in the Guideline, microwaves and dishwashers are given a "useful life" of 10 years. Clothes washers/dryers, refrigerators and stoves are given a "useful life" of 15 years. I find that the "useful life" of a garburator is more in line with a microwave or dishwasher. Even if I found that it was more in line with a washer/dryer, fridge or stove, the garburator has reached the end of its "useful life". This portion of the Landlords' claim is dismissed.

With respect to gardening, Residential Tenancy Guideline 1 provides:

> **PROPERTY MAINTENANCE**
>
> 1. The tenant must obtain the consent of the landlord prior to changing the landscaping on the residential property, including digging a garden, where no garden previously existed.
>
> 2. Unless there is an agreement to the contrary, where the tenant has changed the landscaping, he or she must return the garden to its original condition when they vacate.
>
> 3. Generally the tenant who lives in a single-family dwelling is responsible for routine yard maintenance, which includes cutting grass, and clearing snow. The tenant is responsible for a reasonable amount of weeding the flower beds if the tenancy agreement requires a tenant to maintain the flower beds.
>
> 4. Generally the tenant living in a townhouse or multi-family dwelling who has exclusive use of the yard is responsible for routine yard maintenance, which includes cutting grass, clearing snow.

5. The landlord is generally responsible for major projects, such as tree cutting, pruning and insect control.

6. The landlord is responsible for cutting grass, shovelling snow and weeding flower beds and gardens of multi-unit residential complexes and common areas of manufactured home parks.

[Reproduced as written.]

I find that insufficient evidence that the Tenants were given permission to change the landscaping at the rental property. I find that there was also insufficient evidence that the there was an agreement that the Tenants did not have to return the garden to its original condition at the end of the tenancy. The Tenants stated that they had emails to support their submission that the Landlord had agreed to the vegetable garden, but the Tenants did not provide such documentary evidence. The photographs provided by the Landlord indicate that the garden was overgrown with weeds at the end of the tenancy.

In this case, I find that the Tenants are responsible for returning the garden to its original condition at the end of the tenancy. The Tenants stated that the Landlord put in additional fencing and statues that were not there when the Tenants moved in. The Landlord did not provide evidence showing the state of the garden at the beginning of the tenancy; however the invoice provided by the Landlord indicates that the gardener charged for "removal of overgrowth and debris, reconstitution of soil, redesign and layout of borders, and replanting of lawn, bulbs and perennials. There is no charge for erecting fences or placing statues in the garden. Therefore, I allow this portion of the Landlord's claim in the amount of **$569.70**.

The Landlords' claim had merit and I find that they are entitled to recover the cost of the **$100.00** filing fee from the Tenants.

I find that the Landlord has established a monetary award, calculated as follows:

Unpaid utilities	$35.64
Carpet cleaning	$155.00
Gardening services	$569.70
Recovery of the filing fee	$100.00
TOTAL	$860.34

Pursuant to the provisions of Section 72 of the Act, I order that the Landlords deduct their monetary reward from the security deposit. The remainder of the security deposit and the pet damage deposit must be returned to the Tenants forthwith ($1,000.00 - $860.34 = $139.66).

Conclusion

The Landlords are awarded a total of **$860.34**, including recovery of the filing fee.

The Tenants are hereby provided with a Monetary Order in the amount of **$139.66**, representing return of the balance of the security and pet damage deposits after deduction of the Landlords' monetary award. This Order may be enforced in the Provincial Court of British Columbia (Small Claims 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: June 08, 2017

Residential Tenancy Branch