



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CASCADIA APARTMENT RENTALS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR MND MNDC MNSD FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the Act") for: a monetary order for unpaid rent and damage to the unit pursuant to section 67; authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenants did not attend this hearing, although I waited until 2: 43pm. in order to enable the tenants to connect with this teleconference hearing scheduled for 2:30pm. The landlord/applicant attended the hearing and was given a full opportunity to be heard, to present sworn testimony, and to make submissions.

The landlord testified that he served both the tenants with individual Application for Dispute Resolution ("ADR") packages on January 13, 2017 by registered mail. The landlord submitted Canada Post receipts and tracking information to confirm the mailing and successful delivery of these packages. I find that the landlord served the two tenants individually in accordance with section 89 and 90 of the Act as of January 18, 2017 (deemed date of receipt). The landlord confirmed that he sent the packages to the forwarding address provided by the tenants at the end of this tenancy.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent and damage to the unit?
Is the landlord entitled to retain all or a portion of the tenants' security deposit?
Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

This tenancy began on April 1, 2015 as a fixed term. The tenancy ended after the landlord issued a 10 Day Notice for Unpaid Rent and the tenants vacated the rental unit. The landlord continues to hold a \$675.00 security deposit and a \$675.00 pet damage deposit paid by the tenants at the outset of the tenancy.

The landlord testified that the tenant did not pay the current rental amount of \$1389.00 on February 1, 2017 when it was due. The landlord testified that the tenants paid partial rent on February 22, 2017 and that the tenants did not pay rent in March 2017, ultimately vacating the unit on March 23, 2017. The landlord testified that \$1749.74 remains outstanding in rent.

The landlord testified that the tenants did not attend the condition inspection although they were given a lengthy period of time to do so. The landlord testified that she called the tenants several times and attempted to speak with them regarding the move-out condition inspection. The landlord referred to the condition inspection report provided in the landlord's evidence package. That report indicated that the unit was left dirty, requiring repairs and painting as well as carpet cleaning and removal of junk left behind by the tenants. To take all of the steps required for the unit, the landlord claims the following amount,

Item	Amount
Unpaid Rent	\$1749.74
Carpet Cleaning	110.00
Rent Unit Cleaning (including materials)	288.00
Painting of Rental Unit (including materials)	405.00
Kitchen Drawer repair/replacement	40.00
Junk removal from Rental Unit	150.00
Less Security Deposit + Pet Damage Deposit	-1300.00
Recovery of Filing Fee for this Application	100.00
Total Monetary Order Sought by Landlord	\$2742.74

The landlord testified that the unit was left dirty. She referred to the condition inspection report as well as photographic evidence from the end of the tenancy to support her testimony. The photographic evidence showed unclean appliances in the kitchen, holes

in the walls, garbage including beer cans in the kitchen and bathroom, dirty stains on the ground in the inside and outside of the residence as well as debris/garbage inside and outside of the residence. The report indicated carpet cleaning, painting and paint, repairs, furniture removal and rent owing. The landlord provided a receipt for cleaning the rental unit at the end of the tenancy in the amount of \$288.00. The cleaners' hours were also itemized and attached to the invoice for cleaning.

The landlord testified that the carpets had not been cleaned in accordance with the residential tenancy agreement. The landlord provided a receipt for the carpet cleaning dated April 5, 2017, shortly after the end of this tenancy. The receipt identified this rental property and an amount for carpet cleaning of \$110.25. She referred to the condition inspection report that stated, dirty carpets and the need to carpet clean. She also referred to the residential tenancy agreement provision that read the "carpet shall be professionally cleaned" by the tenant or paid for by the tenant if the landlord arranges carpet cleaning.

The landlord testified that the rental unit was required to be painted. I note that the landlord did not provide evidence to suggest that the rental unit had been painted immediately prior to this two year tenancy. The landlord acknowledged that this rental had continued for approximately 2 years. The landlord testified that the unit had been painted prior to the tenants moving in. The condition inspection report states "painted" at the outset of the tenancy. The landlord submitted a painting bill for services and materials totalling \$405.00.

The landlord testified that the rental unit required repair. She provided photographs and the condition inspection report to show that the face of the kitchen drawer had been broken or removed from the drawer thereby requiring replacement of the front of the drawer and repair of the drawer itself. The landlord provided a receipt for the repair of the drawer in the amount of \$40.00.

The landlord referred to the photographic evidence from the end of tenancy to show that a variety of items had to be removed from the rental premises after the tenants had vacated. The photographs showed an old desk left inside the residence as well as two older televisions, flowerpots inside the unit and children's bicycles outside. The landlord provided a receipt for the removal of junk left behind by the tenants in the amount of \$150.00.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss (in this case, the landlord) bears the burden of proof.

The landlord must prove the existence of the damage/loss. I find that the landlord has proven damage and loss as a result of this tenancy by virtue of the provision of the condition inspection report that accurately reflects her testimony and is supported by the photographic evidence submitted for this hearing.

The landlord must prove that the damage/loss stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Again, the condition inspection report is clear and, according to Residential Tenancy Regulation No. 21 as laid out below, the condition inspection report is the best evidence of the condition of the unit unless proven.

Evidentiary weight of a condition inspection report

- 21** In dispute resolution proceedings, a condition inspection report completed in accordance with this Part is evidence of the state of repair and condition of the rental unit or residential property on the date of the inspection, unless either the landlord or the tenant has a preponderance of evidence to the contrary.

The landlord must also provide evidence that can verify the actual monetary amount of the loss/damage. I find that the landlord has provided evidence with respect to monetary amount of each item she seeks – with the residential tenancy agreement and the rental increase form to show the amount of unpaid rent and the condition inspection report to document the damage at the end of the tenancy.

I find that the landlord proved, with invoice, photographs and condition inspection report as well as undisputed sworn testimony that the walls required painting and repair at the end of the tenancy that was marginally beyond regular wear and tear over the course of the tenancy. I note that the landlord provided some evidence to suggest that the rental unit had been painted immediately prior to this two year tenancy. The landlord submitted a painting bill for services and materials totalling \$405.00. I find that the landlord is entitled to recover 50% of \$405.00 – a portion of the costs for repair and painting of the walls.

I find that the landlord proved, with invoice and condition inspection report as well as undisputed testimony that the unit, particularly the appliances, required extensive cleaning at the end of the tenancy. I accept the photographic evidence submitted to show the condition of the unit at the end of tenancy. Therefore, I find that the landlord is entitled to recover \$288.00 for cleaning of the rental unit.

I find that the landlord proved, with invoice and condition inspection report as well as undisputed testimony that the carpets required cleaning at the end of the tenancy. I accept the residential tenancy act provision pointed out by the landlord that requires professional carpet cleaning at the end of the tenancy. Therefore, I find that the landlord is entitled to recover \$110.00 for carpet cleaning of the rental unit.

I find that the landlord proved, with an invoice and condition inspection report as well as undisputed testimony that one kitchen drawer was damaged requiring repair. A photograph of the drawer was provided showing the damage to the drawer. Therefore, I find that the landlord is entitled to recover \$40.00 for repair of the kitchen drawer damaged during the course of this tenancy.

The landlord submitted sufficient photographic evidence as well as the condition inspection report to show the items left by the tenants that needed to be removed from the rental premises after the tenants had vacated the unit. The photographs showed an old desk left inside the residence as well as two older televisions, flowerpots inside the unit and children's bicycles outside and other items. The landlord provided a receipt for the removal of junk left behind by the tenants in the amount of \$150.00. I find that the landlord is entitled to recover \$150.00 for junk removal at the rental unit at the end of the tenancy.

Based on the evidence before me, I find the landlord is entitled to a monetary order as follows,

Item	Amount
Unpaid Rent	\$1749.74
Carpet Cleaning	110.00
Rent Unit Cleaning (including materials)	288.00
Painting of Rental Unit (including materials) <i>50% of \$405.00</i>	202.50
Kitchen Drawer repair/replacement	40.00
Junk removal from Rental Unit	150.00
Less Security Deposit and Pet Damage Deposit (\$675.00 + \$675.00 with no interest)	-1300.00

Recovery of Filing Fee for this Application	100.00
Total Monetary Order	\$1340.24

Pursuant to section 72(2) of the Act, I allow the landlord to retain the security and pet damage deposits paid by the tenants at the outset of this hearing. There is no interest payable on the deposits during the period.

As the landlord was successful in her application, I find that the landlord is entitled to recover the cost of her \$100.00 filing fee.

Conclusion

I issue a monetary order to the landlord in the amount of \$1340.24.

The landlord is provided with this Order in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: July 27, 2017

Residential Tenancy Branch