



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, FF

Introduction

This hearing convened as a result of a Landlords' Application for Dispute Resolution filed March 15, 2017 wherein the Landlords sought monetary compensation from the Tenants for damage to the front entry of the rental building as well as cleaning costs, authority to retain the security deposit and recovery of the filing fee.

The hearing was conducted by teleconference on August 15, 2017. Both parties called into the hearing and were given a full opportunity to be heard, to present their affirmed testimony, to present their evidence orally and in written and documentary form, and make submissions to me.

Preliminary Matter—Naming of the Parties

On the Landlords' Application for Dispute Resolution the names of the Landlords were inverted. Pursuant to section 64(3)(c) of the *Residential Tenancy Act* I amend the Landlords' Application to correctly name the Landlords.

Preliminary Matter—Landlords' Evidence

The Landlord, R.P., claimed she had filed additional evidence two weeks prior to the hearing and had provided this evidence to the Tenants. The Tenant, J.F., and counsel for the Tenants confirmed that no such evidence was received. Similarly, that evidence was not before me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, not all details of the respective submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Are the Landlords entitled to monetary compensation from the Tenants?
2. What should happen with the Tenants' security and pet damage deposit?
3. Should the Landlords recover the filing fee?

Background and Evidence

The Landlord, R.P., did not initially identify herself as being present during the teleconference as such I began hearing evidence from the Tenant, J.F. He stated that the tenancy began January 1, 2017. He confirmed that they paid a security deposit in the amount of \$400.00 and a pet damage deposit in the amount of \$400.00.

J.F. stated that they moved from the rental property on February 28, 2017.

He confirmed that the Landlord did not return either the security deposit or the pet damage deposit despite having the Tenant's forwarding address as of February 28, 2017.

When R.P. confirmed she was on the teleconference she was affirmed and gave the following testimony.

R.P. stated that the Tenants were evicted for non-payment of rent. She stated that after she gave the Tenants the 10 Day Notice for Unpaid Rent and Utilities, the Tenant, L.S., and her guests kicked at the front door repeatedly and pulled on the front door repeatedly until they broke the lock and bent the metal cover which goes over the lock.

R.P. stated that she has video and photos of the incident confirming it was L.S. and her guests caused this damage; neither of these were in evidence. R.P. stated that she provided the Tenants with photos and the video of the entry way door damage when she tried to negotiate a settlement of these issues.

In the within action the Landlords sought the sum of \$900.00. R.P. stated that the door sustained \$760.00 in damages as the lock had to be replaced and the cover redone. She confirmed that the other \$140.00 represented cleaning costs. R.P. claimed that the Tenants washed the floors and the rest of the apartment with VIM, a cleaning product which she claims left a residue and as a result the floors had to be washed three times to get rid of the sticky residue. She also stated that the Tenants left red marks on the

counter and the walls which were washed off. She stated that the fixtures were also sticky and tacky and the oven was not cleaned. R.P. stated that the Tenants were with her when they did the move out condition inspection as well as the cleaner and as such the Tenants know they did not clean the rental unit as required.

Also provided in evidence was a copy of the move in and move out condition inspection report confirming the move in was done on January 1, 2017 and the move out on February 28, 2017.

L.S. responded to the Landlords' claims as follows. She stated that she did not damage the door as alleged. She stated that she and her friends were locked out of the rental property and she did not have a key to get in. She also claimed that the door lock was broken before.

L.S. stated that she used a lemon all-purpose cleaner and water when cleaning the rental unit, not VIM, and in any case did not leave a residue as claimed by the Landlord.

Counsel for the Tenants alleged that the Tenants did not have a chance to go through the rental unit in a proper inspection, rather the Tenant L.S. was simply asked to sign the report after it had been completed.

L.S. initially stated that she was not given the opportunity to go through the rental property. However, she then gave evidence to suggest that she was present while the Landlord inspected the rental unit as required. She stated that at the time of the inspection R.P. claimed that the oven was not cleaned even though the Tenant says spent half an hour cleaning it to the best of her ability; she also stated that there was caked on "black" which was there when they moved in. L.S. also stated that she cleaned the inside of the refrigerator as opposed to what the Landlord claimed.

Analysis

In a claim for damage or loss under section 67 of the *Act* or the tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the Landlords have the burden of proof to prove their claim.

Section 7(1) of the *Act* provides that if a Landlord or Tenant does not comply with the *Act*, regulation or tenancy agreement, the non-complying party must compensate the other for damage or loss that results.

Section 67 of the *Act* provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

The condition in which a Tenant should leave the rental unit at the end of the tenancy is defined in section 37 of the *Act* as follows:

37 (2) When a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

The Landlords allege the Tenant, L.S., and her guests damaged the entry way door. L.S. denies this allegation. While it is always difficult to reconcile conflicting testimony, it is the Landlords who bears the burden of proving their claim on a balance of probabilities, and without corroborating evidence to support the Landlords' claim, I am unable to find the Tenant damaged the entry way door. I therefore dismiss the Landlords' claim for related compensation.

Counsel for the Tenants submitted that the move out condition inspection report was performed improperly. While the Tenant, L.S. initially testified she was not able to go through the property with R.P., she then gave detailed testimony as to R.P.'s inspection of various rooms; in all the circumstances, I find that the Tenant L.S. was present when the Landlord inspected the rental property and that the inspection was done as required.

The move out condition inspection report indicates the condition of the rental unit as "G", which is "good", save and except for the notations for the floors and oven which are noted as "F", meaning "fair"; as well, there is a notation that the floors were "sticky" and the "oven not cleaned" and "needs minor cleaning".

Section 21 of the *Residential Tenancy Act Regulation* provides as follows:

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.

Based on the move out condition inspection report filed in evidence, and the testimony of R.P., I accept the Landlords' evidence and R.P.'s testimony that the rental unit required cleaning as claimed. I therefore award the Landlords the **\$140.00** claimed for cleaning.

As the Landlords have only been partially successful, I award them recovery of one half of the filing fee in the amount of **\$50.00** for a total award of **\$190.00**.

Conclusion

The Landlords' claim for compensation for the damaged entry door is dismissed.

The Landlords are granted compensation in the amount of **\$190.00** representing compensation for cleaning of the rental unit as well as one half of the filing fee. They are authorized to retain \$190.00 from the Tenants \$800.00 in deposits and must return the balance of **\$610.00**.

In furtherance of this my Decision, I grant the Tenants a Monetary Order in the amount of **\$610.00** representing return of the balance of their security and pet damage deposit. This Order must be served on the Landlords and may be filed and enforce in the B.C. Provincial Court (Small Claims Division).

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 18, 2017

Residential Tenancy Branch