



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC, MND, MNSD, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss, for a monetary Order for damage to the rental unit, to keep all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

The Landlord stated that on May 01, 2017 the Application for Dispute Resolution and the Notice of Hearing were personally delivered to the forwarding address provided by the Tenant. The Tenant acknowledged receipt of these documents.

On July 07, 2017 the Landlord submitted evidence to the Residential Tenancy Branch. The Landlord stated that this evidence was served to the Tenant, via registered mail, on July 05, 2017. The Tenant acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

On September 14, 2017 the Tenant submitted evidence to the Residential Tenancy Branch. The Tenant stated that this evidence was served to the Landlord, via registered mail, on September 14, 2017. The Landlord acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. The parties were advised of their legal obligation to speak the truth during these proceedings.

Preliminary Matter

At the outset of the hearing the Tenant indicated that she wished to call her mother as a witness. When she was given the opportunity to call a witness the Tenant stated that she was satisfied that she could rely on the written statement submitted by this Witness.

Issue(s) to be Decided

Is the Landlord entitled to compensation for damage to the rental unit and to keep all or part of the security deposit?

Background and Evidence

The Landlord and the Tenant agree that:

- the tenancy began on December 01, 2016;
- the tenancy ended in April of 2017;
- the Tenant agreed to pay monthly rent of \$1,125.00 by the first day of each month;
- the Tenant paid a security deposit of \$550.00;
- the Tenant paid a pet damage deposit of \$550.00;
- a condition inspection report was completed prior to the beginning of the tenancy; and
- a condition inspection report was completed at the end of the tenancy, although the Tenant did not sign it as she did not agree with the content of the report.

The Landlord is seeking compensation, in the amount of \$120.00, for cleaning the interior of the rental unit. The Landlord stated that the rental unit smelled of pet urine and had a substance on the walls which she presumes was pet urine. The Tenant stated that the rental unit was thoroughly cleaned at the end of the tenancy and did not smell of urine.

The Landlord submitted photographs, which she stated were taken during the final condition inspection. She stated that photographs 11, 12, 13, 18, 19, 20, 24, 25, 26, 27, 33-35, and 37-39 are representative of the type of cleaning required at the rental unit.

The Tenant submitted photographs which she contends show the rental unit was left in clean condition. She acknowledged that her photographs were taken from a distance and would not show the same detail as the Landlord's photographs.

The Landlord is seeking compensation, in the amount of \$37.25, for the 45 minutes she spent cleaning the exterior of the rental unit. The Landlord stated that she had to dispose of the garbage the Tenant left in the yard, as depicted by photographs #37-39. She stated that this claim also includes time she spent cleaning fecal matter from the yard at various times during the tenancy.

The Tenant stated that the box in photograph 37 was a box she gave to a tradesperson employed by the Landlord. She stated that when she vacated the rental unit she left garbage/recycle in the bins and she presumes the garbage was rifled through by a third party. She stated that she took her dog off the property to defecate during the last two weeks of the tenancy and that she regularly picked up after her dog when her pet defecated on the property.

The Landlord is seeking compensation, in the amount of \$500.00, for painting the interior of the rental unit. The Landlord stated that several walls in the unit were damaged during the tenancy, as depicted by photographs 1, 3, 4, 5, 17, 23, 28-30, and 36. The Landlord noted that there is a red stain on the wall in photograph 17.

The Tenant stated that the damage depicted in photograph #1 was related to a flood in the rental unit. The Landlord acknowledged that there was a flood in the rental unit but she believes the damage in those photograph was caused by the Tenant's dog scratching at the wall.

The Landlord and the Tenant agree that only the area missing paint in photograph #5 is new damage, and that the remaining "dents" were pre-existing.

The Tenant stated that the damage in photograph 29 was pre-existing and that it was noted on the condition inspection report that was completed at the start of the tenancy. There is a note on the condition inspection report that indicated the wall/trim in this bedroom was damaged.

The Tenant stated that she assumes the rest of the damage depicted in the photographs occurred during her tenancy.

The Landlord and the Tenant agree that when this tenancy began the Landlord took photographs of damaged areas and each party initialed the photographs. These photographs were submitted in evidence.

The Landlord estimates the rental unit was last painted in May of 2016. The Landlord submitted a receipt to show that it cost \$500.00 to paint the unit.

The Landlord is seeking compensation, in the amount of \$52.50, for cleaning the carpet. The Landlord stated that the carpet in a corner of the living room was stained and that

she attempted to remove the stain by cleaning the carpet. The Landlord stated that her photographs 11 and 12 show the stain on the carpet.

The Tenant contends that the carpet was not stained at the end of the tenancy, as depicted by her photograph #99. The condition inspection report that was completed at the end of the tenancy declares that carpet in the living room was not damaged at the end of the tenancy.

The Landlord submitted an invoice that indicates it cost \$52.50 to clean the carpet.

The Landlord is seeking compensation for replacing the carpet. The Landlord stated that after several cleanings the carpet still smelled of pet urine, so she concluded it needed to be replaced. The Tenant contends that it did not smell of urine, as indicated by the various witness statements she submitted.

The Landlord is seeking compensation for repairing the laminate floor. The Landlord stated that there was a flood in the kitchen and she hired someone to repair the flooring that lifted as a result of the flood. She stated that the floor was scratched by the Tenant's cat in an area that was not impacted by the flood and that she paid \$80.00 to have this area of the floor replaced, plus the cost of materials.

The Landlord submitted photographs (#9 and 10) of the area she contends was damaged by the Tenant's cat. The Tenant stated that the damage depicted by these photographs was related to the flood, not her pets.

The Landlord is seeking compensation of \$50.00 for the 1 hour she spent installing two sets of blinds that were damaged during the tenancy. The Landlord and the Tenant agree that two sets of blinds were damaged during the tenancy and that the Tenant provided the Landlord with two replacement sets of blinds. The Tenant stated that she did not have time to install the blinds prior to vacating the rental unit.

The Landlord is seeking compensation of \$36.75 to repair a set of vertical blinds in the living room. The Landlord stated that the blinds did not open/close properly at the end of the tenancy. The Tenant stated that they operated properly when the tenancy ended.

The Landlord submitted a photograph of the blinds, which indicate that two panels do not align with the rest of the panels. The Landlord submitted a receipt to show the Landlord incurred this expense, although the receipt does not declare why the blinds needed to be repaired.

The Landlord is seeking compensation of \$21.56 for purchasing 3 lightbulbs. The Landlord stated that 9 lightbulbs were burned out during the tenancy and that the Tenant left her with three replacement lightbulbs. The Tenant stated that 6 lightbulbs were burned out during the tenancy and that she left the Landlord with three replacement lightbulbs.

The Landlord is seeking compensation of \$16.65 for the 20 minutes she spent installing the 6 lightbulbs left by the Tenant.

Analysis

When making a claim for damages under a tenancy agreement or the *Residential Tenancy Act (Act)*, the party making the claim has the burden of proving their claim. Proving a claim in damages includes establishing that damage or loss occurred; establishing that the damage or loss was the result of a breach of the tenancy agreement or *Act*; establishing the amount of the loss or damage; and establishing that the party claiming damages took reasonable steps to mitigate their loss.

Section 37(2) of the *Act* requires a tenant to leave a rental unit reasonably clean at the end of the tenancy. Residential Tenancy Branch Policy Guideline #1 stipulates, in part, that an arbitrator may determine whether or not the condition of premises meets reasonable health, cleanliness and sanitary standards, which are not necessarily the standards of the arbitrator, the landlord or the tenant.

On the basis of the photographs submitted in evidence, I find that the rental unit was left in reasonably clean condition at the end of the tenancy. Although I recognize that there are some areas on the wall that require wiping, I find that the amount of cleaning in those areas was minimal and do not constitute a breach of section 37(2) of the *Act*. I therefore dismiss the Landlord's claim for cleaning the interior of the rental unit.

In adjudicating the claim for cleaning I have placed no weight on the Landlord's testimony that the rental unit smelled of urine, as that claim was refuted by the Tenant and was not corroborated by any independent source. Conversely, the Tenant submitted witness statements in which the authors declare they could not detect pet odours when they were in the unit.

I find that the Landlord has submitted insufficient evidence to establish that the garbage left in the yard was not placed in the recycle/garbage bins, as the Tenant alleges. I find

the Tenant's testimony that she left them in the bins is credible and that she gave a reasonable explanation for how the garbage ended up on the ground. I therefore dismiss the Landlord's claim for compensation for picking up this small amount of garbage.

I find that the Landlord has submitted insufficient evidence to establish that she had to pick up any significant amount of dog feces during the tenancy. In reaching this conclusion I was heavily influenced by the absence of photographs that establish the amount of feces that she picked up and by the Tenant's testimony that she regularly picked up after her dog. Although I accept that the Landlord may have occasionally picked up after the Tenant's dog, it is clear from the amount of compensation she is seeking that the amount of time she spent doing so was not significant. This causes me to conclude that, in all likelihood, the Tenant would have eventually picked up the feces if the Landlord had not done so. I therefore dismiss the Landlord's claim for compensation for picking up dog feces.

Section 37(2) of the *Act* requires a tenant to leave a rental unit undamaged, except for reasonable wear and tear, at the end of the tenancy. Residential Tenancy Branch Guideline #1 defines "reasonable wear and tear" as the natural deterioration that occurs during aging and other natural forces, where the tenant has used the unit in a reasonable manner.

I find that the Landlord submitted insufficient evidence to establish that the Tenant's dog caused the damage depicted in photograph #1. I find the Tenant's testimony that the damage was caused by a flood more compelling than the Landlord's speculation that it was caused by the Tenant's dog, as the damage simply seems more consistent with damage caused by a floor, with water seeping up through drywall tape.

On the basis of the photographs that depict the areas on the walls that were damaged prior to the start of the tenancy, I accept that the Landlord has accurately reflected the damage that occurred to the walls during the tenancy. I find that these bumps and scratches exceed normal wear and tear and that the Tenant is, therefore, obligated to compensate the Landlord for repainting the unit.

Claims for compensation related to damage to the rental unit are meant to compensate the injured party for their actual loss. In the case of fixtures in a rental unit, a claim for damage and loss is based on the depreciated value of the fixture and not based on the replacement cost. This is to reflect the useful life of fixtures, such as carpets and countertops, which are depreciating all the time through normal wear and tear.

The Residential Tenancy Policy Guidelines show that the life expectancy of interior paint is four years. The evidence shows that the living room was painted in May of 2016 and was, therefore, approximately one year old at the end of the tenancy. I therefore find that the paint in the living room has depreciated by twenty-five percent, and that the Landlord is entitled to seventy-five percent of the cost of repainting the living room, which in these circumstances is \$375.00.

I find, on the basis of the Landlord's photographs, that the carpet was stained at the end of the tenancy. I find the Landlord's photographs more compelling than the Tenant's photograph, as the Tenant's photograph was taken from a distance and does not clearly reflect the condition of the carpet in the area of the stain. As the condition inspection report that was completed at the start of the tenancy indicates the carpet was in good condition at the start of the tenancy, I must conclude that this staining occurred during the tenancy. I therefore find that the Landlord is entitled to the cost of cleaning the carpet, in the amount of \$52.50.

I find that the Landlord submitted insufficient evidence to establish that the carpet in the unit smelled of urine. In reaching this conclusion I was heavily influenced by the absence of evidence from an independent party, such as a carpet installer, that corroborates the Landlord's testimony that the carpet smelled of urine or that refutes the Tenant's testimony that it did not smell of urine. As previously noted the Tenant submitted several witness statements in which the authors declare they could not detect pet odours when they were in the unit.

As the Landlord has submitted insufficient evidence to establish that the carpet needed to be replaced because it smelled of urine, I dismiss her claim for replacing the carpet.

I find that the Landlord submitted insufficient evidence to show that the laminate flooring was damaged by the Tenant's pet(s). In reaching this conclusion I was heavily influenced by the absence of evidence from an independent party, such as a flooring installer, that corroborates the Landlord's testimony that the damage to the laminate flooring was not caused by the flood or that refutes the Tenant's testimony that the damage depicted by the Landlord's photographs was caused by the flooding.

I find that the photographs of the laminate flooring do not convince me that the flooring was damaged by a pet. Although there are marks on the floor that could be described as scratches, I note that the two tiles on the upper portion of photograph #7 appear to have a pattern that is remarkably similar. I find that the similarity of the patterns is

inconsistent with damage that would be typical of pet damage. In general, I find that the damage to the floor is more consistent with water damage than pet damage. I therefore dismiss the Landlord's claim for repairing the laminate flooring.

On the basis of the undisputed evidence I find that the Tenant left the Landlord two blinds to replace two sets of blinds that were damaged during the tenancy. I find that the Tenant failed to comply with section 37 of the *Act* when she failed to install the blinds before vacating the unit. I therefore find that the Landlord is entitled to compensation for the 1 hour she spent installing the blinds, in the amount of \$25.00. I find \$25.00 to be reasonable compensation for labor of this nature.

On the basis of the photograph of the vertical blind in the living room and an invoice that shows the blinds were repaired, I accept that the vertical blind in the living room was damaged at the end of the tenancy. I find that this evidence, in conjunction with the Landlord's testimony that the blinds did not work properly at the end of the tenancy is more compelling than the Tenant's testimony that they did work properly at the end of the tenancy.

I find, however, that the Landlord has submitted insufficient evidence that the blinds were damaged as a result of the actions or neglect on the part of the Tenant. I note that there does not appear to be any sign of force that would cause me to conclude that the blinds were damaged by the actions of the Tenant. As blinds periodically fail due to normal wear and tear, I find it entirely possible that these blinds were damaged as the result of normal wear and tear. As the Tenant is not obligated to repair damage that is normal wear and tear, I dismiss the Landlord's claim for repairing the blinds.

I find that the Landlord submitted insufficient evidence to show that 9 lightbulbs were burned out at the end of the tenancy. In reaching this conclusion I was heavily influenced by the absence of evidence from an independent party that corroborates the Landlord's testimony that 9 lightbulbs were burned out or that refutes the Tenant's testimony that only 6 light bulbs were burned out. On the basis of the undisputed evidence, I find that the Tenant left the Landlord with 6 lightbulbs. As the Landlord has not established that she needed to purchase 3 lightbulbs, I dismiss her claim for compensation for these lightbulbs.

On the basis of the undisputed evidence I find that the Tenant left the Landlord six lightbulbs to install that burned out during the tenancy. I find that the Tenant failed to comply with section 37 of the *Act* when she failed to replace the lightbulbs before vacating the unit. I therefore find that the Landlord is entitled to compensation for the 20

hour she spent installing the blinds, in the amount of \$8.50. I find this to be reasonable compensation for labor of this nature.

I note that the condition inspection report that was completed at the end of the tenancy was not signed by both parties, and therefore cannot be relied upon to reflect the condition of the unit at the end of the tenancy.

I find that the Landlord's Application for Dispute Resolution has merit and that the Landlord is entitled to recover the fee for filing this Application for Dispute Resolution.

Conclusion

The Landlord has established a monetary claim, in the amount of \$561.00, which includes \$375.00 for painting, \$52.50 for cleaning the carpet, \$25.00 for installing blinds, \$8.50 for installing lightbulbs, and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to retain this amount from the Tenant's security/pet damage deposits in full satisfaction of this monetary claim.

As the Landlord has not established the right to retain all of the Tenant's security/pet damage deposits, I find that she must return the remaining \$539.00. Based on these determinations I grant the Tenant a monetary Order for the \$539.00. In the event the Landlord does not voluntarily comply with this Order, it may be served on the Landlord, filed with the Province of British Columbia Small Claims 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 *Act*.

Dated: September 26, 2017

Residential Tenancy Branch