



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW HEARING DECISION

Dispute Codes MNSD, MND, MNR, FF

Preliminary matter

This hearing was convened as a result of a review consideration application made by the Tenants dated January 16, 2018. There was a previous hearing on June 7, 2017 regarding a 2 Month Notice to End Tenancy for Landlord's Use of the Property. The Landlord was successful and the Landlord received an order of possession with an effective vacancy date of June 30, 2017. Following this the Landlord made an application dated July 10, 2017 for a monetary claim for unpaid rent and damages. The Landlord was awarded a monetary order for \$2,045.05 on January 4, 2018. The Tenants did not attend the hearing on January 4, 2018, because they said in their review consideration application that they did not receive the Notice of Hearing. The Tenants were successful in the review application which resulted in this hearing.

A review hearing is granted to hear the matter again and the outcome is determined by the merits of the hearing.

Introduction

This matter dealt with an application by the Landlord for compensation for damage to the unit, site or property, for compensation for unpaid rent, to retain the tenants' security deposit and to recover the filing fee for this proceeding.

The Review Hearing Notices of Hearing were served to the parties by the Residential Tenancy Branch. The Landlords and the Tenants were both represented at the hearing.

Issues(s) to be Decided

1. Are there damages to the unit, site or property?
2. Are the Landlords entitled to compensation for the damage and if so how much?
3. Is there unpaid rent and if so how much?
4. Are the Landlords entitled to compensation for unpaid rent and if so how much?
5. Are the Landlords entitled to retain the Tenants' security deposit?

Background and Evidence

This tenancy started on December 1 or 15, 2010 as a verbal month to month tenancy. Rent was \$1,050.00 per month payable in advance of the 1st day of each month. The Tenants paid a security deposit of \$250.00 at the start of the tenancy. The Landlords were awarded \$100.00 of the Tenants' security deposit in the decision of June 7, 2017. Both parties agreed there were no move in or move out condition inspection reports completed. The Landlords' agent said the Tenants moved out of the rental unit on June 15, 2017 as a result of the 2 Month Notice to End Tenancy for Landlord's Use of the Property.

The Landlords' agent continued to say this is the third hearing for this tenancy. In the first hearing the Landlords were awarded an Order of Possession, the second hearing the Landlords received a monetary order in the amount of \$2,045.05. The Landlords' agent said the Landlords' claims are the same and they are as follows:

Unpaid rent for June 2017	\$1,050.00
Cleaning and carpet cleaning	\$ 682.50
Drywall repairs	\$ 420.00
Light bulb replacement	\$ 20.15
Screen replacement and repair	\$ 22.40
Painting	\$1,200.00
Filing fee	<u>\$ 100.00</u>
Total	<u>\$3,495.05</u>

The Landlords' agent said the Tenants put a stop payment on the June 2017 rent cheque and they move out without cleaning the unit or having the carpets professionally cleaned. The Landlords agent continued to say the Tenants put many holes in the walls for a shelving unit, pictures and an air conditioner which created moisture and damaged the drywall in the unit. The Landlords agent said the Landlord had to repair the drywall and paint the unit as a result. Further the Landlords' agent said the Tenants did not replace light bulbs and the Tenants broke a screen on one of the windows that had to be repaired. The Landlord's agent said they have submitted paid receipts and photographic evidence to support the Landlords' claims.

The Tenants said there were no condition inspection reports completed and the unit was not in good condition when they moved in. The Tenant continued to say the Landlord did not compensate them as required when issuing a 2 Month Notice to End Tenancy for Landlord's Use of the Property. Therefore the Tenants said that the compensation could pay the rent for June 2017. Further the Tenants said the Landlord did not tell them of any problems with the unit so they did not have an opportunity to repair or replace any deficiencies.

The Tenants said they left the unit reasonable clean although they did not clean the carpets as they believe the carpets did not need cleaning. Further the Tenants said they did have shelves and pictures up but the house is older and they lived in it for 7 years so they think the repairs and painting of the walls are normal wear and tear.

The Tenants said in closing that the Landlord did no maintenance on the rental unit, the unit has not been painted during the tenancy, the damage was normal wear and tear, there were no condition inspection reports completed and the Landlord did not compensate them for ending the tenancy. The Tenant said they are disputing the Landlords monetary claims.

The Landlords agent said the Tenants did not clean the unit when they move out, they damaged the unit beyond normal wear and tear and the Landlords have submitted photographs and paid receipts to support the claims.

Analysis

For a monetary claim for damage of loss to be successful an applicant must prove a loss actually exists, prove the loss happened solely because of the actions of the respondent in violation to the Act, the applicant must verify the loss with receipts and the applicant must show how they mitigated or minimized the loss.

I have reviewed the testimony and evidence submitted by the Landlords including photographs of the unit and paid cleaning receipts. Further I accept the testimony of both the Landlord and the Tenants that the unit was not thoroughly clean and the carpets were not professionally cleaned when the Tenants moved out of the unit. Consequently, I find the Landlords have proven a loss exists for cleaning the unit and for carpet cleaning in the amount of \$682.50. I award the Landlord \$682.50 for cleaning expenses.

With regard to the unpaid rent for June 2017, I accept the testimony from both parties that no compensation was given to the Tenants as a result of ending the tenancy with a 2 Month Notice to End Tenancy. Section 51 (1) of the Act says that a landlord must compensate a tenant the equivalent of one months rent when ending a tenancy with a 2 Month Notice to End Tenancy for Landlord's Use of the Property. In this case the compensation amount is \$1,050.00. The accept the Landlord's testimony that the June

2017 rent of \$1,050.00 was not paid and I order the compensation owed to the Tenants be used to offset the unpaid rent. Consequently the Landlord's claim for unpaid rent is satisfied. I dismiss the Landlords' claim for unpaid rent for June 2017.

Further I accept the Landlords' testimony and evidence that the drywall damage and window screen damage exceeds normal wear and tear. There are numerous patches and repairs to the walls in the rental unit. Section 37 of the Act says a tenant must leave a unit clean and make repairs as needed to the unit if the tenant caused the damage. I find for the Landlord and award the Landlord \$420.00 in drywall repairs and \$22.40 to repair the window screen. .

With regard to the Landlords' claim for painting of the unit in the amount of \$1,200.00. The Residential Tenancy Branch Policy Guideline # 40 says the economic life of interior paint is 4 years. This tenancy started in 2010 and has not been painted during the tenancy, therefore the units paint is past its deemed economic life and as such is the Landlords' responsibility. I dismiss the Landlords' claim of \$1,200.00 for painting the unit.

Further the Tenants are responsible under section 37 to replace light bulbs at the end of the tenancy. I accept the Landlord's testimony and evidence that light bulbs needed to be replaced. I award the Landlord \$20.15 for light bulbs.

As the Landlords have been partially successful in this matter, the Landlords are also entitled to recover from the Tenant the \$100.000 filing fee for this proceeding. I order the Landlords to retain the balance of the Tenants' security deposit and the Landlords will receive a monetary order for the balance owing as following:

Cleaning and carpet cleaning	\$ 682.50
Drywall repairs	\$ 420.00
Light bulb replacement	\$ 20.15
Screen replacement and repair	\$ 22.40
Filing fee	<u>\$ 100.00</u>
Total	<u>\$1,245.05</u>
Less Balance of Security Deposit	<u>\$ 150.00</u>
Total owing	<u>\$1,095.05</u>

Conclusion

A Monetary Order in the amount of \$1,095.05 has been issued to the Landlords. A copy of the Order must be served on the Tenants: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: April 11, 2018

Residential Tenancy Branch