



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNR MNSD FF

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, received at the Residential Tenancy Branch on August 15, 2017 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage to the unit, site, or property;
- a monetary order for unpaid rent or utilities;
- an order allowing the Landlord to retain all or part of the security deposit or pet damage deposit; and
- an order granting recovery of the filing fee.

The Landlord attended the hearing in person. The Tenant attended the hearing in person and was represented by B.G., a co-tenant who was not named on the Application. Also in attendance on the Tenant's behalf were co-tenants C.D. and M.D., who were also not named on the Application and did not participate in the hearing. B.G., C.D., and M.D. are referred to collectively at the "co-tenants" in this Decision. A witness, for the Tenant, M.G., also attended the hearing. All giving testimony provided a solemn affirmation at the beginning of the hearing.

The Landlord testified the Application package and documentary evidence was served on the Tenant by registered mail. The Tenant acknowledged receipt. Further, the Tenant testified that the evidence upon which he intended to rely was served on the Landlord by registered mail. The Landlord acknowledged receipt and referred to many of the documents during the hearing. No further issues were raised with respect to service or receipt of the above documents during the hearing. Accordingly, pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were provided with a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure,

and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to a monetary order for damage to the rental unit?
2. Is the Landlord entitled to a monetary order for unpaid rent or utilities?
3. Is the Landlord entitled to retain all or part of the security deposit or pet damage deposit?
4. Is the Landlord entitled to an order granting recovery of the filing fee?

Background and Evidence

The Landlord submitted a copy of the tenancy agreement between the parties into evidence. It confirmed that a fixed-term tenancy began on September 1, 2016, and was expected to continue until August 31, 2017. However, damage caused by flooding in the rental unit before the tenancy began caused delays and pro-rated rent from September 1-23, 2016, was returned to the Tenant.

The parties confirmed the Tenant vacated the rental unit on July 31, 2017, and a move-out condition inspection was completed on August 1, 2017. During the fixed term, rent in the amount of \$1,900.00 per month was due on the first day of each month. The Tenant paid a security deposit of \$950.00, which the Landlord holds.

The Landlord's monetary claim was set out on a Monetary Order Worksheet, dated August 14, 2017. The claims were supported by a Condition Inspection Report. The move-in condition inspection was completed on September 25, 2016, and was signed by C.D. The move-out condition inspection was completed on August 1, 2017, and was signed by the Tenant. However, the Tenant indicated he did not agree the report fairly represented the condition of the rental unit at the end of the tenancy.

First, the Landlord claimed \$89.89 to replace a "smashed" crisper in the refrigerator. A photograph depicting the badly-damaged crisper and a receipt for the replacement the Landlord found online were submitted in support. In addition, the Condition Inspection Report made no reference to the crisper at the beginning of the tenancy.

In reply, B.G. suggested the damage depicted in the photograph was not as significant as claimed by the Landlord, and submitted that the damage was caused by wear and tear from the normal use of the crisper.

Second, the Landlord claimed \$115.36 to replace a window blind damaged by the Tenant. Two photographs depicting the damaged blind and a receipt for the replacement blind were submitted in support. The Condition Inspection Report does not indicate any damage to the blinds at the beginning of the tenancy.

In reply, B.G. testified that the blinds were pulled up when she arrived at the rental unit but that there was a bend in the blind. She submitted that this may have resulted in the blind becoming weak and breaking off through normal use. Although B.G. accepted responsibility for the damage, she stated it was not intentional.

Third, the Landlord claimed \$79.43 for a repair and a replacement of window screens. Two photographs depicted the damaged screens. Receipts in support of the repair and the replacement were submitted into evidence. The Condition Inspection Report does not indicate any damage to the screens at the beginning of the tenancy.

In reply, B.G. acknowledged the blinds were accidentally damaged during the tenancy, and that the tenants tried to find a replacement.

Fourth, the Landlord claimed \$28.49 for a replacement smoke detector. According to the Landlord, three hard-wired smoke detectors were removed during the tenancy. The Landlord testified that, at the end of the tenancy, one the smoke detectors was dangling from the ceiling and another, which was not installed, was damaged when it was twisted off the base and had to be replaced. Two photographs depicting removed smoke detectors were submitted in support, as was a receipt for a replacement smoke detector.

In reply, B.G. testified that the smoke detectors were beeping and the tenants could not sleep. She acknowledged they were removed but submitted that one of the smoke detectors was 10 years old and should have been replaced by the Landlord. A photograph of the base of the smoke detector was submitted in support.

Fifth, the Landlord claimed \$264.00 for cleaning services. Thirty-six photographs which included images of the front and interior of the stove, the kitchen floor, the inside of the fridge and freezer, cupboards, washer and dryer, walls, window sills, light fixtures, front and back doors, blinds, baseboards, and a vent were submitted in support. A receipt for cleaning was also submitted in support of this aspect of the Landlord's claim. Although there were initial problems with the condition of the rental unit at the beginning of the tenancy due to flooding, the Condition Inspection Report does not indicate any items requiring cleaning as of September 25, 2016, when it was completed.

In reply, B.G. testified that the unit was cleaned but acknowledged it was not spotless. She submitted that the amount of the Landlord's claim was excessive.

Sixth, the Landlord claimed \$703.50 to paint two bedroom walls and ceilings at the end of the tenancy. Five photographs submitted by the Landlord depict a damaged ceiling, paint on baseboards, and paint on electrical outlets. A receipt for the amount claimed was submitted in support.

In reply, B.G. acknowledged responsibility for the painting.

Seventh, the Landlord claimed \$122.85 to clean carpets at the end of the tenancy. Four photographs depicting marks on the carpet were submitted in support of this aspect of the Landlord's claim, as was a receipt for the service. The Condition Inspection Report does not indicate any damage to the carpets at the beginning of the tenancy.

In reply, B.G. testified the Tenant or the co-tenants rented a steam cleaner for the carpets. She stated the white marks depicted on the photographs submitted by the Landlord was residue from the cleaner used.

Eighth, the Landlord claimed \$100.00 for miscellaneous handyman work required at the end of the tenancy. She testified she needed assistance with some of the work to be completed. Specifically, the handyman replaced the blinds, installed the smoke detectors, and removed paint from outlets and woodwork. A receipt was submitted into evidence in support.

In reply, B.G. submitted that these repairs are the Landlord's responsibility.

Ninth, the Landlord claimed \$1,900.00 for unpaid rent. As noted above, the parties agreed the Tenant and co-tenants vacated the rental unit on July 31, 2017, one month before the end of the fixed term. The Landlord testified she did not receive adequate notice of the Tenant's intention to vacate until July 2017, and that the Tenants did not pay rent when due on August 1, 2017.

In reply, B.G. testified the Landlord understood the Tenant and co-tenants were moving out on July 31, 2017.

Finally, the Landlord sought to recover the \$100.00 filing fee paid to make the Application, and requested that the security deposit held be applied to any amount due to the Landlord.

Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 67 of the *Act* empowers me to order one party to pay compensation to the other if damage or loss results from a party not complying with the *Act*, regulations or a tenancy agreement.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided for in sections 7 and 67 of the *Act*. An applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and
4. That the party making the application did what was reasonable to minimize the damage or loss.

In this case, the burden of proof is on the Landlord to prove the existence of the damage or loss, and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Tenants. Once that has been established, the Landlord must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Landlord did what was reasonable to minimize the damage or losses that were incurred.

With respect to the Landlord's claim for \$89.89 to replace a broken crisper, I find that the damage depicted in the Landlord's photographic evidence is beyond wear and tear due to reasonable use. The Landlord's claim is supported by the Condition Inspection Report, which does not refer to damage when the move-in condition inspection was completed, and a receipt. I find the Landlord is entitled to a monetary award in the amount of \$89.89.

With respect to the Landlord's claim for \$115.36 to replace a damaged window blind, B.G. accepted responsibility for this damage on behalf of the Tenant. However, she denied it was intentional. I find the Landlord is entitled to a monetary award in the amount of \$115.36.

With respect to the Landlord's claim for \$79.43 to repair and replace window screens, B.G. accepted responsibility on behalf of the Tenant. I find the Landlord is entitled to a monetary award in the amount of \$79.43.

With respect to the Landlord's claim for \$28.49 to replace a smoke detector, I find the Landlord is entitled to the relief sought. The Landlord's claim was supported by photographic images and a receipt for the replacement. Further, B.G. acknowledged the smoke detectors were removed by the Tenant or co-tenants during the tenancy because they were beeping. I find it is more likely than not that the damage was caused by the Tenant or co-tenants when the smoke detectors were removed. I find the Landlord is entitled to a monetary award in the amount of \$28.49.

With respect to the Landlord's claim for \$264.00 for cleaning services, B.G. testified the rental unit, although not spotless, was cleaned at the end of the tenancy. However, this aspect of the Landlord's claim was supported by extensive photographic evidence and receipts for cleaning. I find the rental unit required considerable cleaning at the end of the tenancy. I find the Landlord is entitled to a monetary award in the amount of \$264.00.

With respect to the Landlord's claim for \$703.50 to paint two bedroom walls and ceilings, B.G. accepted responsibility for the painting on behalf of the Tenant. I find the Landlord is entitled to a monetary award in the amount of \$703.50.

With respect to the Landlord's claim for \$122.85 for carpet cleaning, B.G. testified the Tenant and co-tenants cleaned the carpets at the end of the tenancy. However, she acknowledged the white stains depicted in the Landlord's photographic evidence was the cleaner they used. I find the Landlord is entitled to a monetary award in the amount of \$122.85.

With respect to the Landlord's claim for \$100.00 for miscellaneous handyman work, I find that the work performed was significantly related to the damage or repairs for which B.G. has acknowledged responsibility on behalf of the Tenant. I find the Landlord is entitled to a monetary award in the amount of \$100.00.

With respect to the Landlord's claim for \$1,900.00 for unpaid rent, I find the Tenant and co-tenants vacated the rental unit without providing notice and before the end of the fixed term. Accordingly, I find the Landlord is entitled to recover unpaid rent for the month of August 2017. I find the Landlord is entitled to a monetary award in the amount of \$1,900.00.

As the Landlord has been successful, I grant an award in the amount of \$100.00 in recovery of the filing fee paid to make the Application. Further, I order that the Landlord may retain the security deposit in partial satisfaction of the claim. Accordingly, pursuant to section 67 of the *Act*, I grant the Landlord a monetary order in the amount of \$2,553.52, which has been calculated as follows:

Item	Allowed
Fridge crisper drawer:	\$89.89
Replace window blind:	\$115.36
Window screen repair/replacement:	\$79.43
Smoke detector:	\$28.49
Cleaning:	\$264.00
Painting:	\$703.50
Carpet cleaning:	\$122.85
Handyman work:	\$100.00
Unpaid rent (August 2017):	\$1,900.00
Filing fee:	\$100.00
LESS security deposit:	(\$950.00)
TOTAL:	\$2,553.92

Conclusion

The Landlord is granted a monetary order in the amount of \$2,553.92. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: May 2, 2018

Residential Tenancy Branch