



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, FFL

Introduction

The landlord filed an application for dispute resolution on June 14, 2018, pursuant to section 59 of the *Residential Tenancy Act* (the “Act”). The landlord seeks the following relief under sections 67 and 72 (1) of the Act:

1. an order of compensation for damage to the rental unit in the amount of \$3,908.91; and,
2. an order of compensation for recovery of the filing fee in the amount of \$100.00.

This is my decision pertaining to the landlord’s application.

The landlord and the tenant attended the dispute resolution hearing before me on October 1, 2018, were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The parties did not raise any issues in respect of service of documents.

While I have reviewed all oral and documentary evidence submitted, only relevant evidence pertaining to the issues of this application is considered in my decision.

Issues to be Decided

1. Is the landlord entitled to an order of compensation for damage to the rental unit?
2. Is the landlord entitled to an order of compensation for recovery of the filing fee?

Background and Evidence

The landlord testified that the tenancy commenced on February 1, 2013 and ended on May 31, 2018. Monthly rent was \$1,200.00 and the tenant paid a security deposit of \$600.00. There was no pet damage deposit.

The rental unit consists of a house built in 2008. The landlord purchased the house just prior to the tenant moving in, in 2013.

The parties conducted a move-in inspection on January 24, 2013, and a move-out inspection on May 31, 2018. A copy of the Condition Inspection Report (the "Report") was submitted into evidence by the landlord.

Various comments related to damage and cleanliness of the rental unit are listed in the Report, of which the following ones specifically relate to the landlord's application for compensation: (1) "stains on patio (cement) oil ?"; (2) oven light and hood light needs replacing; (3) 2 light bulbs needing replacing in the bathroom; (4) scratches on living room floor; (5) 2 light bulbs need replacing in the master bedroom; (6) nut for toilet seat; (7) stains on carpet in master bedroom; and, (8) various other cleaning, which is outlined in greater detail below. The parties signed the Report.

While the tenant hired a cleaning company to clean the rental unit when it was time to leave the rental unit, the company did an inadequate job of cleaning, resulting in further cleaning that needed to be done by the parties.

In support of her claim, the landlord submitted various photographs of the damage, and copies of receipts and estimates for repairing and replacing various items. I will summarize these as follows:

Light bulbs and toilet nut	\$31.06
Carpet replacement	\$582.18
Concrete patio repair	\$750.00
Laminate	\$3,234.67
2 hours of cleaning	\$60.00

Regarding the carpet replacement, the landlord testified that it is stained, and that cleaning it did not remove the stain. The landlord testified that when the tenant moved in, the carpet was only about a year old. The estimate provided was the cheaper of two

quotes obtained.

Concerning the concrete patio repair, the landlord testified that the concrete patio is stained with some sort of oil stains. Two hours of cleaning these did not improve the situation. Repairing the concrete patio will consist of a contractor redoing the surface.

Regarding the laminate floor, the landlord testified that it was badly scratched (a photograph was submitted into evidence) and that as it is an open concept room, the entire laminate floor needs to be replaced. The scratches were caused by a cleaner hired by the tenant. Marker ink (the kind used to cover up minor scratches) would not repair the scratches, and the flooring company advised the landlord that the entire flooring would need to be replaced.

Regarding the two hours cleaning, the landlord testified that this cleaning consisted of cleaning the oven hood, above the cupboards, the windows, the curtains, and attempting to clean the patio.

While the tenant did not dispute that she caused, directly or indirectly, the damage and repairs claimed for, she did dispute whether the extent of the repairs and replacements claimed for are reasonable. She disputed the landlord's submission that an entire floor of laminate has to be replaced when only a portion of it is scratched. Likewise, she disputes the proposal that all of the carpet be replaced when there are only a few stains.

In referring to the Report, the tenant pointed out that the landlord did not use the codes as was used upon move-in. For example, the condition codes were listed as either G or F for each line within the Report, while there is an absence of these codes under the column "Condition at End of Tenancy." As for damage that did occur, this would, in the tenant's submission, be the result of normal wear and tear.

As for the stains on the concrete patio, the tenant testified that these came from a company washing out a sump pump, which overflowed all the time. The pump had to be taken out about once a year and cleaned. Further, the tenant testified that she was unaware that she was responsible for the outside patio. Finally, the tenant submitted that the landlord did not fully communicate the full extent of the damages, including the expensive laminate floor replacement.

The parties gave additional evidence in relation to when the tenant ultimately moved out, and issues regarding whether the landlord should have been in the rental unit on

the day of the move out. As this side-issue does not materially affect the claim, I will not address this further.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

The landlord seeks compensation for costs related to repairing and cleaning the rental unit. The purpose of compensation is to put the person who suffered the damage or loss into the same position as if the damage or loss had never occurred. The party claiming compensation must provide compelling evidence establishing that they are entitled to compensation.

In coming to a decision on whether compensation is due, I must determine if

1. a party to the tenancy agreement failed to comply with the Act, regulation, or tenancy agreement,
2. loss or damage resulted from their non-compliance,
3. the party who suffered the damage or loss can prove the amount or value of the damage or loss, and
4. the party who suffered the damage or loss has acted reasonably in minimizing their damage or loss.

Section 37(2) of the Act states that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean and undamaged except for reasonable wear and tear.

The tenant did not dispute the claim for lightbulbs but did dispute that a toilet seat nut would not be anything other than reasonable wear and tear. The landlord did not testify as to the age of the toilet seat, or dispute that replacing a toilet set nut would in fact be reasonable wear and tear. I find that, after five years of a tenancy, a toilet seat's nut needing replacement is reasonable wear and tear, and I decline to award for this item.

Regarding the floor, the tenant did not dispute that she caused the scratches to the laminate floor. (Although, unfortunately, it was the cleaning company hired by the tenant that scratched the floors.) Although some scuffing to a laminate floor will occur through reasonable wear and tear, deep scratches caused by dragging furniture across a floor,

that are irreparable, is not reasonable wear and tear. A careful tenant (or cleaner) will pick up furniture when moving it on such floors, or, have foam/felt cushion pads attached to the bottom of such furniture. The landlord's submissions that the entire floor needs to be replaced, given that removing part of the floor is not feasible due to the nature of laminate (which in this case is glued), is reasonable. The landlord submitted a quote from a flooring company, and the tenant did not provide any documentary evidence to counter the submission, that the entire floor needs replacing.

Regarding the carpet, the tenant did not dispute that she caused the stains. After attempting to steam clean the carpet, the stains remained. While stains can occur by accident, they are not reasonable wear and tear. The landlord submits that the entire carpet needs to be replaced, and I find that this is reasonable in the circumstances.

Regarding the concrete patio, the tenant submitted that it was the cleaning of the sump pump that resulted in the stains. The landlord responded that the cause of the stains was new information to her, and that, regardless, oily liquids would have resulted from the tenant pouring cooking oil down the drain. The tenant submitted that she was unaware that she was responsible for the exterior of the house.

The Report refers to external areas of the rental unit, and the tenant would have been aware of these areas upon the Report being completed at the start of the tenancy. Based on the testimony of the tenant, it was the sump pump repair company that she hired that caused the stains. Oily liquid stains on a concrete patio are, with respect, not reasonably wear and tear. As such, I find that the landlord's claim for repairs to the concrete patio are reasonable.

Finally, regarding the amount claimed for cleaning, the tenant did not dispute the landlord's submission that the cleaning company hired did a lackluster job. As such, I find that two hours submitted to clean the items referred to above are reasonable. While \$30.00 is on the high end of cleaner costs, the amount is not unreasonable.

Taking into consideration all the oral and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving her claim for damages to the light bulbs, the carpet, the laminate, and the concrete patio. But for the tenant's non-compliance with section 37(2) of the Act, the various damages would not have occurred.

Now I must turn to the amounts, or values, claimed for each of the above items. I will reference *Residential Tenancy Policy Guideline 40 – Useful Life of Building Elements*,

(the "Policy") to which the tenant referred me during the hearing, as the amounts claimed will be modified based on the useful life of each element.

Regarding the patio, the useful life of a concrete floor (slab)—which I find is sufficiently similar to the concrete patio—is 10 years, as noted in the Policy. As such, given the house is now 10 years, I accordingly reduce the amount claimed by 100% to \$0.00.

Regarding the carpet, the useful life of a carpet is 10 years, as noted in the Policy. The carpet was one year old when the tenant moved in, and the tenant lived in the rental unit for 5 years. As such, there would have been approximately 4 years of useful life of the carpet remaining. I accordingly reduce the amount claimed by 60% to \$232.87.

Regarding the laminate flooring, the useful life of flooring is 10 years, and as the landlord testified that the laminate is approximately 6 years old, I accordingly reduce the amount claimed by 60% to \$1,293.87.

The replacement cost of lightbulbs is \$30.52 (excluding GST and PST, including the environment fee), and I find that this is reasonable. Further, I find that the cleaning costs claims in the amount of \$60.00 are reasonable.

I find that the landlord acted reasonably in minimizing her loss. She did the cleaning herself (the amount claimed for \$60.00) and obtained various quotes to replace and repair the various damages components of the rental unit. While the landlord did not complete the Report using the codes as she did at the start of the tenancy, I find that the comments regarding each damage to be sufficient to put the tenant on notice that those are the items for which the landlord might pursue compensation. The report is, for the purposes of making a future claim, sufficiently and adequately completed.

I grant her a monetary award in the amount of \$100.00 for recovery of the filing fee.

Given the above, I grant the landlord a total monetary award in the amount of \$1,717.26. I further order that the landlord may retain the security deposit of \$600.00 in partial satisfaction of this claim.

Conclusion

I hereby grant the landlord a monetary order in the amount of \$1,117.26, which must be served on the tenant. The order may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as a judgment or 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: October 1, 2018

Residential Tenancy Branch