



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Cascadia Apartment Rentals Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for compensation - Section 67;
2. An Order to retain the security deposit - Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy started on April 1, 2017 and ended on March 31, 2018. Rent of \$1,450.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected \$725.00 as a security deposit. The Parties mutually conducted both a move-in and move-out inspection. The Tenant’s forwarding address was provided on the move-out report of March 31, 2018.

The Landlord states that a copy of the move-out report was provided to the Tenant with the evidence package. The Tenant states that no report was include in the package but that the Tenant was prepared to proceed without a copy in front of her.

The Landlord states that the Tenant painted the unit grey without permission and claims \$761.25 for the labour costs and \$245.28 for the supply costs to paint the unit. The Landlord states that after the end of the tenancy the entire unit was painted by the Landlord although some walls had been left with the original beige color. The Landlord states that these walls required paint as grey spots were left on them. The Landlord states that the ceiling also required paint as paint spots were left on the ceiling. The Landlord states that the paint spots could not be touched up as they were extensive. The Landlord points to photos provided as evidence. The Landlord states that the walls were only discovered at the move-out inspection and that the Landlord had not previously been inside the unit to have seen the walls. The Landlord was adamant that he had not been in the unit during the tenancy. The Landlord states that the costs for the paint and supplies were set out on the move-out report as the Landlord knew of the standard costs for painting the unit from previous paint jobs done by the same company. The Landlord states that the walls had previously been painted in March 2017. The Landlord states that a purchase order for the previous paint job was supplied as evidence.

The Tenant states that the Landlord did give them permission to paint the unit at the outset and that they only had to ensure use of a neutral color. The Tenant states that she spoke with the Landlord on the phone to obtain the permission. The Tenant states that the walls were not freshly painted at move-in, that the color was very old and that smoke stains were coming down the walls. The Tenant states that they complained to the Landlord about the smoke stains but the Landlord did nothing and that for this reason they asked to paint the unit. The Tenant states that the Landlord was in the unit multiple times prior to the end of the tenancy and never said anything to the Tenants about the paint. The Tenant states that two days before the move-out the Landlord

mentioned that the paint color was too dark so the Tenants repainted the unit beige in the two days before move-out. The Tenant states that photos of the new paint were provided as evidence for this hearing. The Tenant states that the Landlord's photos do not show the correct color. For example the Tenant states that the photos show a pink color to the ceilings and yet the ceilings were white. The Tenant states that this color difference makes it hard to discern the true colors from the Landlord's photos.

The Landlord states that they have waiver forms to be signed if permission was granted to paint. The Landlord states that he did speak with the Tenant about painting the unit and that they did ask if they could paint and that the Landlord told them if they did paint the unit they would have to return it to the original color for the end of the tenancy. The Landlord states that the Tenants did not paint the unit before they moved out and that he took photos of the grey walls at move-out in front of the Tenant's husband who was present for the move-out inspection. The Landlord states that he was in the unit during the tenancy as stated by the Tenant. The Tenant describes two occasions when the Landlord was in the unit after the walls were painted grey. The Landlord agrees that he was in the unit as described by the Tenant.

The Landlord states that the Tenant failed to leave the unit and carpet clean and claims \$120.00 for cleaning costs, \$24.00 for cleaning supply costs, and \$124.95 for carpet cleaning costs. The Parties agree that the Tenant would assume reduced costs of **\$50.00** for the cleaning and cleaning supply costs. The Landlord states that he knows the carpet was not cleaned as the Tenants did not provide any receipt for the cleaning. The Landlord also states that the carpets just did not look clean. The Tenant states that the carpets were cleaned and states that photos of the carpet cleaner and cleaned carpets have been provided.

The Landlord states that the Tenant left the living room and patio blinds damaged with missing slats and claims \$114.22 for replacement costs and \$100.00 for labour costs. The Landlord provides a receipt for the replacement costs and states that no costs were

incurred for the labour as their employee did the labour as part of the employment. The Landlord states that the blinds were new in March 2017 and that the Landlord provided a purchase order from that date as evidence of the age of the blinds. The Tenant agrees that the blinds were damaged and states that the missing slats were left in the unit.

The Landlord states that the Tenant did not return the keys to the unit and claims \$250.00 as the cost to replace the locks. The Landlord states that the unit doors had two locks, one for the Landlord's master key and one for the Tenant's key. The Landlord states that the Tenants failed to return the keys and that as the Landlord did not have a copy of the keys provided to the Tenant for the bottom lock the Landlord had to change all the locks. The Tenant states that the one set of keys for the house was returned to the Landlord and that the second set of keys was in the mail for return the next day. The Tenant states that the Landlord refused to wait for those keys to be returned. The Tenant states that also there was only one key lock on the doors so the Tenant has no idea what the Landlord is talking about with two separate locks for each door.

Analysis

Section 37 of the Act provides 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. Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. This section further provides that where a landlord or tenant claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement the claiming party must do whatever is reasonable to minimize the damage or loss.

The Landlord gives contradictory evidence about having been in the unit prior to the move-out. The Landlord gives inconsistent evidence in relation to how the paint amount

was determined for the move-out as the Landlord states that he knew the costs from other jobs however the Landlord provided evidence of purchase orders for the paint for the unit indicating that the orders were made on March 1 and March 5, 2018. This order for paint and labour tends to indicate that the Landlord was aware of the grey paint well in advance of the end of the tenancy. There are no purchase orders provided that show any paint supplies or labour for prior to the start of the tenancy and I consider that the photos provided by the Landlord show the unpainted walls to have old paint. For these reasons I find that the Landlord's overall evidence cannot be considered reliable. As a result and given the Landlord's vague evidence that the Tenants did speak to the Landlord about painting the unit, I prefer the Tenant's evidence and find that the Landlord did agree to the Tenant's painting of the unit. From the photos I also find that the Tenants did not do a great job on the edging however from these same photos I consider that the Landlord could have mitigated the costs claimed with touch ups. Overall I consider that the Tenants were given permission to paint the walls and that while the Tenant's did not do a great job the Landlord knew about the job well in advance of the end of the tenancy and failed to take any steps to mitigate the losses claimed. I find therefore that the Landlord has only substantiated a nominal amount of **\$100.00** for the Tenant's breach in painting the unit so poorly.

Given the agreement on cleaning costs I find that the Landlord has substantiated an entitlement to **\$50.00** for the cleaning and supply costs. Given the Tenant's photo evidence I find on a balance of probabilities that the carpets were left clean and I dismiss this cleaning costs claimed by the Landlord.

Based on the undisputed evidence that the Tenant left the blinds damaged and given the evidence of incurred costs with an invoice, I find on a balance of probabilities that the Landlord has substantiated an entitlement to **\$114.22** for replacing the blinds. Given the Landlord's evidence that no costs were incurred to install the blinds I find that the Landlord has not substantiated the costs claimed and I dismiss this claim.

The Landlord's evidence of two locks was confusing and no photos were provided of the locking mechanisms. Further given the lack of any evidence of security concerns with outstanding keys and considering that the Landlord should have retained a set of keys for any locks I find on a balance of probabilities that the Landlord has not substantiated that the Tenants caused the Landlord to have to change the entire locking mechanisms. However given that the move out report does indicate that no keys were returned I find on a balance of probabilities that the Landlord is entitled to a nominal sum for having to replace keys in the amount of **\$50.00**.

As the Landlord's application has had some merit I find that the Landlord is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$414.22**. Deducting this amount from the security deposit plus zero interest of **\$725.00** leaves **\$310.78** owed to the Tenants.

Conclusion

I Order the Landlord to retain \$414.22 from the security deposit plus interest in the amount of \$725.00 in full satisfaction of the claim.

I grant the Tenant an order under Section 67 of the Act for **\$310.78**. If necessary, this order may be filed in the 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 *Residential Tenancy Act*.

Dated: September 5, 2018

Residential Tenancy Branch