



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ADVANCED PROPERTY MANAGEMENT INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **FFL MNDCL-S MNDL-S**

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 37 and 67; and
- authorization to recover filing fee for this application pursuant to section 72;

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 2:10 p.m. to enable the tenants to call into this hearing scheduled for 1:30 p.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord gave evidence that she served each of the tenants with the Application for Dispute Resolution hearing package by registered mail on November 23, 2018. The landlord provided testimony as to the Canada Post tracking numbers. I find the tenants were deemed served with the Application for Dispute Resolution hearing package and the evidence 5 days after the registered mailing, on November 28, 2018 pursuant to section 89 and 90 of the *Act*.

I have reviewed all evidence and testimony before me that meet the requirements of the rules of procedure; however, I refer to only the relevant evidence, facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for damages to the rental unit and other losses?

Is the landlord entitled to retain a portion of the security deposit in satisfaction of compensation for damage or loss?

Is the landlord entitled to recover the filing fee from the tenant?

Background and Evidence

The landlord gave the following undisputed testimony. The tenancy started on May 1, 2016 and ended on October 31, 2018. The rental unit is a newly built house, less than five years old, located in a new subdivision. At the beginning of the tenancy, the parties completed a condition inspection report and the landlord accepted a security deposit of \$800.00 which she still holds. A copy of the tenancy agreement was not entered into evidence to show the amount of rent at the commencement of the tenancy, however at the conclusion of the tenancy, rent was \$1,612.00 per month.

When the tenancy ended on October 31, 2018 at 9:00 p.m., the tenants were still in the process of moving out. At that time, the house was in general disarray with friends of the tenants assisting the tenants in moving their belongings out. At the agreed time, the landlord commenced the move-out condition inspection report without the tenants participating. As the tenants were still in the unit packing and moving during the inspection, the landlord gave the report to the tenant VL to review and sign. The landlord was made aware of the tenants' forwarding address on October 31, 2018 when the tenant VL signed the condition inspection report. The landlord filed their application for dispute resolution on November 15, 2018.

A copy of the move-out inspection report was submitted. The move-out date is not indicated on the report, however the landlord testified that it was completed the night of October 31, 2018. The report notes "damage to the rental unit for which the tenant is responsible: cleaning, clean carpets, drywall damage-BR, dents etc. acknowledge about 70%, and bulbs out." Damage to the exhaust fan in the kitchen and a broken fridge handle were not noted on the report as these deficiencies were discovered after the landlord and tenant, VL had signed it.

The landlord submitted invoices to substantiate their claim.

1. The first invoice is from a carpet cleaning in the amount of \$160.00 plus GST.
2. The second invoice, in the amount of \$330.00 from the professional cleaning company, indicates a total of nine hours to clean walls, floors, light fixtures, baseboards, bathrooms, deep kitchen, etc.

3. The third invoice consisted of an email from JP. This invoice quotes fridge handle and seal plus (one) hour labour to repair, two hours labour to power wash the deck and back wall of the house, and an additional two hours labour to do yard and flower bed clean up. JP quotes \$452.89 plus 22.59 GST to do this work.
4. The last invoice, from the property maintenance company quotes six hours at \$35.00 per hour to repair minor drywall damage and touch up paint, replace weather stripping on back door and install new exhaust fan in the kitchen. It also quotes \$208.35 for materials, including colour match paint, weather stripping and a new fan.

The landlord testified that since the tenants were still moving out throughout the night of October 31, 2018, when the subsequent tenants tried to move in the following morning, the rental unit was in such a poor state of cleanliness and repair that they were unable to take possession of the unit. The landlords reimbursed the new tenants \$110.00 which represents two days rent at \$1,650.00 per month.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. To claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party.

Once that has been established, the claimant must then provide evidence to verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age. The landlord did not provide any photographs of damage to the rental unit, so I relied on the landlord's undisputed testimony and invoices as proof of damage or loss.

Carpet Cleaning

Residential Tenancy Policy Guideline 1 (PG-1) provides guidance for the landlord and tenants' responsibilities. PG-1 states the tenant must maintain "reasonable health, cleanliness and sanitary standards" throughout the rental unit or site, and property or park. **The tenant is generally responsible for paying cleaning costs where the property is left at the end of the tenancy in a condition that does not comply with that standard...at the end of the tenancy the tenant will be held responsible for**

steam cleaning or shampooing the carpets after a tenancy of one year (emphasis added).

I accept the landlord's testimony that the tenant did not clean the carpets at the end of a tenancy of approximately one and a half years, and I note that the tenant acknowledged she was responsible for doing so on the inspection report. The invoice for \$160.00 plus GST is a reasonable cost to clean the carpets and I award the landlord the amount of **\$168.00** as invoiced by the carpet cleaning company.

Cleaning

I accept the landlord's testimony that the tenants were still in the process of packing their belongings and moving out of the rental unit late in the evening of October 31, 2018. I accept the landlord's reasoning that because they were still moving out, the tenants did not have time to bring the unit back to the standard applied in PG-1. As this was the tenants' responsibility, in accordance with PG-1, I award the landlord the full amount of the cleaning invoice, or **\$330.00**.

Property Maintenance

PG-1 states maintenance of the yard and flower beds are the tenant's responsibility only in situations where the tenancy agreement requires the tenant to maintain it. The landlord did not provide evidence to show why this responsibility fell upon the tenant and I decline to award the landlord reimbursement for additional property maintenance labour costs.

I accept the landlord's undisputed testimony that the tenants broke the fridge handle and seal during the tenancy and award the landlord \$277.89 + GST of \$33.34 + \$35.00 labour to repair the fridge handle. The total award is **\$346.23**.

I accept the landlord's undisputed testimony that the tenants broke the exhaust fan and the tenants agreed they damaged the drywall. PG-1 states the tenant is required to paint or repair where the work is necessary because of damage for which the tenant is responsible. As the tenant acknowledged 70% of the damage to the drywall, I find it reasonable to award the landlord reimbursement for the cost spent to repair and repaint it. Six hours at \$35.00 per hour and \$208.35 for the materials required is a reasonable amount to assess for this damage repair and for this I award the landlord **\$439.27**.

Reimbursement to subsequent tenants

Following the reasoning that the tenants did not complete moving out until late into the night on October 31, 2018, and therefore left the rental unit in a condition that did not meet reasonable health, cleanliness and sanitary standards. I accept that the landlords were unable to accommodate the move-in of the subsequent tenants for 2 days. Pursuant to section 67 of the Act, the landlord is awarded a prorated two days rent at \$1,650.00 per month which amounts to **\$110.00**.

Filing Fee

As the landlord was successful in this application, it is entitled to recover the **\$100.00** filing fee from the tenants.

Security Deposit

The landlord continues to hold the tenant's security deposit in the amount of \$800.00. In accordance with the offsetting provisions of section 72 of the Act, I order the landlord to retain the entire security deposit in partial satisfaction of the monetary claim.

The landlord is entitled to a monetary order as set out below.

Item	Amount
Carpet Cleaning	\$168.00
Cleaning	\$330.00
Property Maintenance	\$346.23
Property Maintenance	\$439.27
Reimbursement to subsequent tenants	\$110.00
Filing Fee	\$100.00
Less security deposit	(\$800.00)
Total monetary order	\$693.50

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 of the Act, and I grant a monetary order in the amount of **\$693.50**.

This order must be served on the tenants. If the tenants fail to comply with **this order**, the landlord may file the order in the Provincial Court of British Columbia (Small Claims) and be 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: February 1, 2019

Residential Tenancy Branch