



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes For the landlord: MNDL, FFL
 For the tenant: MNSD, FFT

Introduction

This hearing was convened as a result of the cross applications of the parties for dispute resolution seeking remedy under the Residential Tenancy Act (“Act”).

The landlords applied for a monetary order for alleged damage to the rental unit and for recovery of the filing fee paid for this application.

The tenants applied for a return of their security deposit and pet damage deposit, and for recovery of the filing fee paid for this application.

The hearing process was explained to the parties and an opportunity was given to ask questions about the hearing process.

At the outset of the hearing, both parties confirmed receipt of the other’s documentary evidence.

Thereafter the parties were provided the opportunity to present their evidence orally, refer to relevant documentary and digital evidence submitted prior to the hearing, respond to the other’s evidence, and make submissions to me.

I have reviewed the oral, digital, and written evidence of the parties before me that met the requirements of the Dispute Resolution Rules of Procedure (the “Rules”); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issue(s) to be Decided

1. Are the landlords entitled to monetary compensation due to alleged damage to the rental unit and to recovery of the filing fee paid for this application?
2. Are the tenants entitled to monetary compensation comprised of their security deposit and pet damage deposit and to recovery of the filing fee paid for this application?

Background and Evidence

The undisputed evidence was that this tenancy began on June 1, 2018, ended on December 27, 2018, monthly rent was \$1,800.00, and that the tenants paid a security deposit of \$900.00 and pet damage deposit of \$300.00. The undisputed evidence also shows that the parties had a final, move-out inspection on December 31, 2018.

Landlords' application-

The landlords' monetary claim is as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Carpet steam cleaning, missing curtain, damaged door and house cleaning	\$530.25
2. Filing fee	\$100.00
TOTAL	\$630.25

The tenants agreed that they are responsible for the curtain replacement, as they inadvertently took them when packing and agreed to responsibility for the damaged closet door.

The participants provided the following oral evidence in support of and in response to the landlords' application.

The landlord submitted that the parties did have a final inspection of the rental unit on December 31, 2018, but as the inspection was rushed, some items of damage and cleaning issues were undetected at that time. The landlord submitted that the tenants had three pets, including rabbits, all uncaged, resulting in stained carpets. The landlord

submitted that there was pet hair and fecal matter left in the air vents at the end of the tenancy.

The landlord submitted that there were melted stickers on the ground and that the tenants put plastic in the dishwasher, which required additional cleaning. Additionally, the landlord submitted that the tenants damaged the closet door.

Upon inquiry, the landlord confirmed that he made alterations to the condition inspection report after the inspection was over and outside the presence of the tenants.

The landlords' relevant evidence included, but was not limited to, numerous photos of the rental unit interior, prior to and after the tenancy, copies of text messages between the parties, and a photo of a partial receipt from a siding company, showing "pet carpet = \$200, damaged door = \$100, cleaning = \$180 @ \$30/hr, and missing curtain = \$25".

Tenants' response-

The tenants submitted that the alleged damage was not pointed out during the inspection and that they cleaned the rental unit to the best of their abilities. They denied that their pets caused the debris left under the affixed vents.

The tenants submitted further that the property was left in good condition and that as noted before, the only issues with the rental unit were the closet door and the curtains. The tenants submitted it was the landlord who was late for the final inspection, which caused the landlord to feel rushed. The tenants submitted further that the landlord later added remarks to the inspection report.

The tenants submitted they were not present while the photos of the rental unit were taken, after the tenancy ended, and did not agree with the landlord's remarks on the condition inspection report made after the inspection.

The tenants submitted that apart from the door and the curtain, there were no other issues with the rental unit. The tenants pointed out that the refrigerator was not on wheels and they could not clean underneath.

Tenants' application-

The tenants' monetary claim is in the amount of \$530.25 comprised of the balance of their security deposit and pet damage deposit. During the hearing, the tenants mentioned that they believed they were entitled to double the amounts of their deposits.

The tenants submitted that they provided the landlord with their written forwarding address on December 31, 2018, on the condition inspection report. The tenants confirmed that the landlord made a deduction from their security deposit and pet damage deposit and returned the amount of \$569.75.

The tenants submitted that although they signed the part of the move-out condition inspection report agreeing to deductions of their entire security deposit and pet damage deposit, he submitted further that he did not understand that this part of the condition inspection report was for that purpose. Further, the tenant submitted that the condition of the rental unit was not listed by the landlord when this part was signed.

Analysis

Based on the oral, documentary and digital evidence before me, and on the balance of probabilities, I find the following.

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that results. Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss. Under section 67 of the Act, an arbitrator may determine the amount of the damage or loss resulting from the that party not complying with the Act, the regulations or a tenancy agreement, and order that that party to pay compensation to the other party.

Landlords' application-

Section 37 of the Act, in part, requires a tenant who is vacating a rental unit to leave the unit reasonably clean and undamaged, except for reasonable wear and tear.

Under sections 23(3) and 35(3) of the Act, a landlord or agent must complete a condition inspection report in accordance with the regulations and the Act. The Act provides that the landlord and tenant inspect the rental unit together.

In the case before me, while the parties inspected the rental unit at the end of the tenancy, the landlord confirmed he made revisions and alterations to the inspection report after the tenants had signed the document. I therefore give no weight to an altered inspection report of the move-out condition as the tenants were not given the opportunity to provide their comments in response to the landlord's later remarks.

The landlords have claimed that the carpet required cleaning due to the tenants' pets and other type staining. Residential Tenancy Branch Policy Guideline 1 states that a tenant may be expected to steam clean or shampoo the carpets at the end of a tenancy regardless of the length of the tenancy if a tenant has had pets which were not caged. Due to the photographic evidence of the landlord, I find on a balance of probabilities that the tenants allowed their rabbits to go uncaged. Given that the tenants provided no evidence that the carpet was steam cleaned, I find the landlords submitted sufficient evidence to support their claim as shown by their receipt. I therefore grant them a monetary award of \$200.00.

As to their claim for cleaning, I find the landlords have submitted sufficient evidence to support their claim for oven cleaning, based upon the photograph showing a wide, burned area on the bottom of the oven. I find a reasonable amount for cleaning the oven to be \$50.00, and I therefore grant them a monetary award in that amount.

I decline to award the landlords further cleaning costs, such as for under the refrigerator, as the appliance was not on rollers, also pursuant to Residential Tenancy Policy Guideline 1. Likewise, I was not persuaded by the debris under the affixed vents or within the vents, as there was no proof that the vents were not in that condition at the beginning of the tenancy. In reaching this conclusion, the landlords' photographs showed the vents being unscrewed and lifted at the end of the tenancy and there was not a similar photo from the beginning of the tenancy.

Further, as I gave no weight to the inspection report depicting the move-out condition, and as the beginning photographs were more long-range shots rather than the up-close shots taken after the move-out inspection, I do not find the landlords have supported the balance of their claim for cleaning.

As to the landlords' claim for a damaged door for \$100.00 and a missing curtain for \$25.00, as shown on the receipt, given that the tenants agreed to these items, I grant the landlords a monetary award of \$125.00.

Based on the above, I find the landlords are entitled to a monetary award of \$375.00, comprised of carpet cleaning for \$200.00, oven cleaning for \$50.00, door damage for \$100.00, and \$25.00 for a missing curtain.

Tenants' application-

Under section 38(1) of the Act, within 15 days of the later of receiving a tenant's forwarding address in writing and the end of the tenancy, a landlord must either repay a tenant's security deposit and/or pet damage deposit or to file an application for dispute resolution claiming against the deposits.

In this case, the condition inspection report shows that the landlords filled in that portion of the report that the tenants signed over the full security deposit and pet damage deposit to the landlords. I, however, find that it is unreasonable for the landlords to write in a deduction of the full deposits on the report when their claim for damages was substantially less than the two deposits. At the end of the tenancy, the damages had not yet been determined, and if the tenants were to forfeit their two deposits, I find the landlords would be unjustly enriched at the tenants' expense.

Additionally, I was not convinced the tenants signed over their two deposits to the landlords, as I have found the undisputed evidence was that the landlords altered the report after the tenants signed it.

In the case before me, the undisputed evidence was that the tenancy ended on December 27, 2018, and the tenants provided their written forwarding address on December 31, 2018, on the condition inspection report. Therefore the landlord had until Tuesday, January 15, 2019, to return the tenants' security deposit and pet damage deposit or file an application claiming against the two deposits. Instead the landlords' application was not filed until January 16, 2019.

Section 38(6) of the Act states that if a landlord fails to comply or follow the requirements of section 38(1), then the landlord must pay the tenants double the amount of their security deposit and pet damage deposit.

Additionally, Residential Tenancy Policy Guideline 17 also provides that unless the tenants specifically waive the doubling of the deposits, the arbitrator will order the return of double the deposit. In this case, they did not, as they specifically asked at the hearing that the deposits be doubled.

I therefore approve the tenants' claim for a return of their security deposit and pet damage deposit and that these amounts must be doubled.

Due to the above, I find the tenants have established a monetary claim of \$2,400.00, comprised of their security deposit of \$900.00, doubled to \$1,800.00, and their pet damage deposit of \$300.00, doubled to \$600.00.

From this amount, \$2,400.00, I subtract the amount of \$569.75 previously returned to and received by the tenants, for a total monetary award to the tenants in the amount of \$1,830.25.

Both applications-

The landlords have been granted a monetary award of \$375.00.

The tenants have been granted a monetary award of \$1,830.25.

I offset the landlords' monetary award of \$375.00 from the tenants' monetary award of \$1,830.25, and order that the landlords pay the tenants the amount of the balance due in the amount of \$1,455.25. In that respect, I grant the tenants a monetary order pursuant to section 67 of the Act in the amount of \$1,455.25.

Should the landlords fail to pay the tenants this amount without delay, the order may be served on the landlords and may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court if it becomes necessary. The landlords are advised that costs of such enforcement are recoverable from the landlords.

I note that as both parties were at least partially successful with their applications and as I have offset the monetary awards, I decline to award either recovery of their filing fee.

Conclusion

The landlords are granted a monetary award of \$375.00.

The tenants are granted a monetary award of \$1,830.25.

I offset the landlords' monetary award from the tenants' monetary award, and granted the tenants a monetary order for the balance due in the amount of \$1,455.25.

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: June 4, 2019

Residential Tenancy Branch