



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BRITISH COLUMBIA HOUSING MANAGEMENT
COMMISSION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDL, FFL

Introduction

This teleconference hearing was scheduled in response to an application by the Landlord under the *Residential Tenancy Act* (the “Act”) for monetary compensation for damages, and for the recovery of the filing fee paid for the Application for Dispute Resolution.

An agent for the Landlord (the “Landlord”) was present for the teleconference hearing, while no one called in for the Tenant. The Landlord was affirmed to be truthful in her testimony and stated that the Tenant was served with the Notice of Dispute Resolution Proceeding package and a copy of their evidence by registered mail. The Landlord stated that the first package was sent on May 10, 2019 to the address that had been provided to them by the Tenant. However, this package was returned stating that the Tenant had moved.

The Landlord stated that they obtained the current address for the Tenant and sent the package by registered mail again on May 22, 2019 and the Tenant signed for the package on May 30, 2019. The Landlord submitted a copy of email communication with the Tenant in which the Tenant provides their current address on May 18, 2019.

The Landlord also submitted a photo of the first package that was returned and registered mail tracking information for the second package which shows that it was delivered on May 30, 2019. The registered mail tracking number is included on the front page of this decision. I find that the Tenant was duly served by registered mail in accordance with Sections 88 and 89 of the *Act*.

I have considered all oral and written evidence before me that met the requirements of the *Residential Tenancy Branch Rules of Procedure*. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issues to be Decided

Is the Landlord entitled to monetary compensation for damages?

Should the Landlord be awarded the recovery of the filing fee paid for the Application for Dispute Resolution?

Background and Evidence

The Landlord provided undisputed testimony on the tenancy which was confirmed by the tenancy agreement submitted into evidence. The tenancy started on February 1, 2016 and ended on March 31, 2018. Although the tenancy agreement does not state the rent amount, the Landlord testified that rent was \$257.00 and that no security deposit was paid. The Landlord submitted an income declaration form that indicates that rent will be set at \$257.00.

The Landlord testified that the Tenant participated in the move-in inspection. A copy of the report dated January 28, 2016 was submitted into evidence and was signed by both parties. The Landlord stated that the move-out inspection was scheduled for April 6, 2018 and although the Tenant had been notified as to the time and date, the Tenant did not show up. The Landlord submitted a copy of the move-out inspection dated April 6, 2019 which was signed by the Landlord only.

The Landlord is seeking compensation in the amount of \$2,851.35 including cleaning, repairs for damages and painting.

The Landlord is claiming \$540.00 for cleaning the rental unit and for junk removal. She stated that the Tenant had removed their belongings but not left the rental unit clean. She stated that this cost includes removal of debris left in the basement, backyard, fridge and other areas of the rental unit. The move-out inspection report notes areas that need cleaning throughout the rental unit and some areas were noted as "very dirty". The Condition Inspection Report also notes "debris" in various areas of the rental unit.

The Landlord submitted into evidence an invoice dated May 8, 2018 which notes charges for the Tenant's unit in the amount of \$120.00 for junk removal, and cleaning in

the amount of \$600.00 for a total of \$720.00. The Landlord stated that they removed 6 hours of cleaning from this amount as their standard cleaning amount and therefore are charging the Tenant \$540.00. The invoice notes that the cleaning was billed at \$30.00 per hour.

The Landlord has also claimed \$15.00 for labour costs for re-installation of a door and handrails and \$52.85 for the cost of replacing a door in the rental unit. The Landlord testified that the doors and handrails had been removed in the basement of the rental unit so needed to be put back on. She stated that they also had to replace a door that was missing.

Included in the Landlord's evidence was an invoice dated August 3, 2018 in the amount of \$30.00 of which the Landlord stated that the Tenant had already paid \$15.00, leaving an amount of \$15.00 owing. They also submitted an invoice dated May 9, 2018 for purchase of a door in the amount of \$55.32. The Landlord stated that the amount they are claiming is \$52.85 which is the cost without GST.

Lastly, the Landlord is seeking compensation for the cost of repairing and painting the rental unit in the amount of \$2,243.50. The Landlord stated that there were a significant number of holes in the walls, such as screw holes, as well as other damage to the walls. The Landlord noted that there was a large chunk missing out of the wall at the top of the stairs. The move-out inspection notes damage to the walls in areas throughout the rental unit and many areas that are marked as "needs painting".

The Landlord stated that only the walls that needed repairs or paint were done and therefore the whole rental unit was not repaired/painted. They submitted an invoice dated June 18, 2018 in the amount of \$3,997.35. The Landlord stated that they are only charging the Tenant 50% of the painting costs due to the unit last being painted in December 2015 and are claiming 100% of wall repairs to the Tenant.

The move-in inspection report notes that the paint on the walls was new at that time. The painting costs as noted on the invoice were \$3,127.00 of which the Landlord is claiming \$1,563.50 from the Tenant and the damage costs were \$680.00 of which the Landlord is claiming the full amount for a total claim for repairs and paint in the amount of \$2,243.50.

The Landlord submitted photos of the rental unit which shows areas of the walls that are dirty, contain holes, marks and other damage.

Analysis

As the Landlord has applied for compensation, I refer to Section 7 of the *Act* which states the following:

7 (1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

(2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Residential Tenancy Policy Guideline 16: Compensation for Damage or Loss outlines a four-part test for determining if compensation is due:

- a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
- loss or damage has resulted from this non-compliance;
- the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

In the matter before me, I accept the Landlord's testimony regarding the condition of the rental unit at the end of the tenancy which I find to be supported by their evidence including photos and the move-in and move-out inspection reports. I also accept the Landlord's affirmed testimony that a time was scheduled for the move-out inspection and as the Tenant did not attend, that the Landlord completed the report on their own.

I also find that the Landlord provided sufficient evidence of the amounts claimed through the submission of the receipts and invoices and find that they were reasonable in reducing the claims such as removing 6 hours from the cleaning invoice and 50% of the painting bill to account for reasonable wear and tear in the rental unit at the end of the tenancy.

As stated in Section 37 of the *Act*, a tenant must leave a rental unit reasonably clean and undamaged with the exception of reasonable wear and tear. I accept the evidence before me and find that the Tenant was not in compliance with Section 37 as the unit was not left reasonably clean or undamaged as indicated by the move-out inspection and the photos.

I find that the Landlord experienced a loss resulting from the Tenant's non-compliance and that the Landlord established the value of their loss through the invoices submitted. Lastly, as stated, I find that the Landlord took reasonable steps to mitigate such as reducing some of the claims charged to the Tenant and not re-painting the entire rental unit.

Therefore, I am satisfied that the Landlord has met the requirements of the four-part test for each of their claims and find that they are entitled to the full amount of compensation as claimed.

As the Landlord was successful with their application, pursuant to Section 72 of the *Act*, I award the recovery of the filing fee in the amount of \$100.00.

The Landlord is granted a Monetary Order in the amount outlined below:

Cleaning and junk removal	\$540.00
Door and handrail replacement	\$15.00
Replacement door	\$52.85
Painting and repairs	\$2,243.50
Filing fee	\$100.00
Total owing to Landlord	\$2,951.35

Conclusion

Pursuant to Sections 67 and 72 of the *Act*, I grant the Landlord a **Monetary Order** in the amount of **\$2,951.35** as outlined above. The Landlord is provided with this Order in the above terms and the Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: August 16, 2019