



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WEST COAST FARMS LTD. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MND, MNDC, FF

Introduction

In the first application the tenants seek to recover a \$1900.00 security deposit, doubled pursuant to s. 38 of the *Residential Tenancy Act* (the “Act”).

In the second application the landlord seeks a monetary award for repairs to the rental unit after the end of the tenancy.

Issue(s) to be Decided

Did the tenants return the rental unit to the landlord at the end of the tenancy in reasonably clean condition and free of damage but for reasonable wear and tear, the standard imposed by s. 37 of the *Act*? Has the landlord failed to comply with s. 38 of the *Act*, thus invoking the doubling penalty?

Background and Evidence

The rental unit is a four bedroom house. It and a twin house were built by the landlord on this rural property about fifteen years ago. This house was rented immediately and had perhaps two sets of tenants before this tenancy started in June 2009.

The monthly rent by the end of the tenancy was \$2250.00. The landlord continues to hold a \$1900.00 security deposit.

The tenancy ended at the end of January 2019. The landlord granted the tenants an extension of about seven days after that to permit the tenants to clean and to receive a new door they were to install. Ultimately the parties conducted a move-out inspection

on February 27, 2019 and in the accompanying report the tenants provided a forwarding address in writing.

The written tenancy agreement shows that only Mr. R.R. was the landlord's tenant.

Mr. D.G. the principle of the landlord company testifies that the tenant left some blood-like spatter on a ceiling and left the wall in a bedroom with drywall mud applied to mars and holes but not sanded. Together those two areas cost him \$1000.00 to have painted by a professional. They had last been painted in, perhaps 2007 or 2008.

He describes how the door hinge on the washing machine supplied with the rental unit had been broken during the tenancy and repaired by him. He claims \$253.80 for parts and for his labour installing a new hinge.

Mr. G. produced a number of photographs showing a certain, large area of carpet to have been badly stained, apparently by inadvertently spilled pop. Another area appears to have suffered cigarette burns. He paid \$150.00 to have all the carpet removed and another \$4979.00 to have the damaged areas professionally carpeted again. He indicates the carpeting was about as old as the paint job.

The landlord claims that the tenants did not return all keys. Mr. G. indicates he spent \$102.19 for more keys.

He claims the tenants failed to maintain the yard, driving vehicles over lawn areas and creating a fire pit. He claims \$50.00 for the cost of reseeding.

In response Ms. W. states that in her view the carpet was older than one year on move in and that the rental unit needed painting generally after ten year tenancy. She says some of the marks that they had filled with drywall putty were pre-existing marks.

She considers that the washing machine door simply failed and was not damaged. It had been closing fine but seemed loose. She denies not returning all keys and agrees the yard needed some improvement after this tenancy.

The tenant Mr. R. confirms he patched some pre-existing holes before leaving. He considers that the carpets were finished their useful life even without the staining or burns.

In response Mr. G. notes that over time many folks were living in this house, not just the two parties at this hearing.

Analysis

Painting

Residential Tenancy Policy Guideline 40, "Useful Life of Building Elements" sets out the usual normal lifetime, the degree by which building elements like painting depreciate over time. The useful life in years of interior painting is four years.

In my view, having regard to the obvious quality of this accommodation and the level of rent being charged, the interior of the home, last painted perhaps eleven or twelve years ago, was due to be painted in any even. I consider the amount of wall damage and marks to be within the bounds of reasonable wear and tear that a painter would normally putty over and sand as normal preparation work.

I disallow this item of the landlord's claim.

Washer Repair

I find that the washer door had been damaged during this tenancy and required repair. I find that it was not damage that could reasonably be considered "wear and tear" and that the landlord's cost for parts and labour is reasonable. I award the landlord \$253.80, as claimed.

Carpet Removal and New Carpeting

These two claims are related to the extent of carpet damage and age of the carpeting and so should be considered together.

The landlord's evidence shows that carpeting in the areas of the dining room and the upstairs landing/master bedroom have been badly damaged. The first by burn holes and the second by a reddish liquid, perhaps pop. I am satisfied the damage is not repairable or cleanable.

Guideline 40, above, states the useful life of a carpet in a rental accommodation is ten years.. This carpeting is at least that and perhaps a year or three more. Arguably then,

the carpets were due for replacement anyway and so any damage the tenants might have inflicted on them is irrelevant.

The landlord's representative Mr. G. claims that there was still some life in the carpets. Reviewing the photographs, I agree. The stairs carpet appears in very good condition. The upper landing carpet has some rolls in it that could be "kicked" out and but for the red staining, would have some serviceable life.

In all the circumstances I find that the tenants bear 20% of the cost of carpet removal and replacement of the damaged areas. I award the landlord \$1025.80.

Keys

The landlord has failed to establish what keys were originally provided with this tenancy and so it is not possible to discern that all the keys were not returned at the end. I dismiss this item of the claim.

Seeding

Considering the damage testified to by Mr. G. and shown in the landlords photographs, I consider the claim of \$50.00 for reseeding to be a very reasonable one. I award the landlord \$50.00.

Tenant Security Deposit

Section 38 of the *Act* states that a) once a tenancy has ended and, b) once a tenant has provided a forwarding address in writing to the landlord, then the landlord must, within fifteen days, either repay the deposit money to the tenant or make an application to keep it.

In this case the tenancy ended January 27, 2019 and a forwarding address in writing was provided with the move-out report on February 27. The landlord's application was not made until July 29, well outside the fifteen day period.

In such circumstances s. 38 states the landlord must pay the tenant double the deposit.

The tenants are therefore entitled to recover \$3800.00, as claimed.

Conclusion

The landlord is entitled to a monetary award of \$1329.60 plus recovery of the \$100.00 filing fee for its application.

The tenant Mr. R.R. is entitled to a monetary award of \$3800.00 plus recovery of the \$100.00 filing fee for his application.

The tenant Mr. R.R. will have a monetary order against the landlord for the difference of \$2470.40

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: October 22, 2019

Residential Tenancy Branch