



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Hollyburn Estates Ltd. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes **MNDL-S, FFL**

Introduction

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

- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- a monetary order for damage to the unit in the amount of \$1,756.42 pursuant to section 67;
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

Tenant VA attended the hearing on behalf of the tenants. The landlord was represented by its agent ("**DS**") and its comptroller ("**SE**"). All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

VA confirmed that the landlord served the tenants with its application materials and supporting evidence. The tenants submitted no documentary evidence in support of their response.

Issues to be Decided

Is the landlord entitled to:

- 1) a monetary order for \$1,756.42;
- 2) recover its filing fee; and
- 3) apply the security deposit against any monetary order made?

Background and Evidence

While I have considered the documentary evidence and the testimony of the parties, not all details of their submissions and arguments are reproduced here. The relevant and important aspects of the parties' claims and my findings are set out below.

The parties entered into a written tenancy agreement starting August 1, 2018. Monthly rent was \$1,935. The tenants paid the landlord a security deposit of \$967.50 which the landlord holds in trust for the tenants. At the start of the tenancy, the parties conducted a move-in inspection.

The tenancy ended on October 31, 2019. The parties conducted a move-out inspection on October 29, 2019.

On the move-out report, the landlord recorded that significant cleaning was required to the rental unit. At the hearing, VA conceded that this cleaning was necessary, and agreed to pay the amount claimed by the landlord (\$626.90).

The move-out report recorded the carpet as "dirty" and requiring a "whole suite replacement". The landlord submitted a number of photographs into evidence showing the condition of the carpet. These photos depict burn marks on the carpet in the living room and master bedroom. They also show significant staining in the carpet in the areas living room and entrance hallway leading into and out of the kitchen. DS testified that these stains were caused by excessive grease in the rental unit, likely from cooking, which settled on the carpet and became worn into the carpet and mixed with dirty by the tenants walking on it.

The landlord submitted photographs of the kitchen appliances and air filter which depict large amounts of grease and grime in the kitchen.

DS testified that the carpet in every room except the second bedroom was damaged to the point where it could not be returned to its original state by cleaning.

VA argued that the staining to the carpet was normal wear and tear, and that there were only two small burn marks in the carpet which were caused by the tenants. He argued that two such burn marks does not warrant to the replacement of the carpet in the entire rental unit.

The landlord claims for the amortized replacement cost of the carpet for the whole unit. The carpet was five years old at the end of the tenancy. The landlord submitted a quote to replace the entire rental unit carpet of \$2,094.61. The landlord calculated the amortized amount owing by the tenant, based on a useful life of 10 years (per Policy Guideline 40), of \$1,029.52.

DS testified that the same carpet material was used throughout the rental unit (except for the kitchen and bathroom). She testified that the landlord attempted to source carpet of the same color and weave as the damaged kind, so that they would not have to

replace the carpet in the second bedroom. She testified that the landlord could not find matching carpet. Accordingly, she argued, the entire rental unit carpet had to be replaced, so as to keep continuity between the rooms.

DS testified that after the tenancy ended, the landlord replaced the carpet in the rental unit with laminate flooring. She testified that this flooring was more expensive than carpeting, and, accordingly, the landlord was not claiming its cost from the tenants. She argued that that this fact is not relevant to whether the tenant should be responsible for the cost of replacing the second bedroom carpet. She submitted that the landlord would have been entitled to the replacement of the second bedroom carpet had the landlord elected to install carpet, rather than laminate flooring. She also argued that it would not be reasonable for the landlord not to install laminate flooring in the second bedroom, and allow the carpet to remain, as it would have been visually unappealing as would have caused the rental unit to have non-unified flooring.

Analysis

1. Cleaning Costs

The tenant did not dispute the costs claimed by the landlord in connection with cleaning the rental unit. Accordingly, I order that the tenant pay the landlord \$626.90.

2. Carpet

Section 37 of the Act states:

Leaving the rental unit at the end of a tenancy

37(2) When a tenant vacates a rental unit, the tenant must

- (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear

Based on my review of the documentary evidence, I find that the carpet in every room, except for the second bedroom, was damaged at the end of the tenancy. Contrary to the argument of VA, I do not find that the staining in the hallway and living room were the result of normal wear and tear in the course of the tenancy. Rather, I accept the landlord's position that they are the result of grease and dirt being worn into the carpet by the tenants. I do not understand this to have been deliberate damage by the tenants, but rather damage done as the result of inattentiveness and negligence.

Based on the significant amount of grease shown to be in the kitchen by the photos submitted by the landlord, I find it likely that over the course of the tenancy a not-insignificant amount of grease worked its way into the carpet. I accept DS's testimony that such grease could not be removed by cleaning.

I accept DS's testimony that the landlord was unable to source matching carpet to replace the damaged carpet. As the carpets throughout the rental unit matched at the start of the tenancy, I find that the landlord is entitled to have the rental unit returned to a state where all the carpets match at the end of the tenancy. As such, I find that the landlord is entitled to recover the amortized cost of replacing the rental unit carpet. I accept the landlord's calculation of this cost as accurate, based on Policy Guideline 40.

Similarly, I find that the landlord should not be required to keep carpet in the second bedroom when it has replaced the rest of the flooring of the rental unit with laminate flooring. As the rental unit had consistent flooring materials throughout when the tenancy started, the landlord is entitled to have consistent flooring at the end of the tenancy. It is not reasonable to require the landlord to retain the second bedroom carpet as it is installing laminate flooring in the rest of the rental unit, when, as I have set out above, it would have been permitted to replace the second bedroom carpet at the tenant's expense if it elected to re-install carpet throughout the rental unit.

Accordingly, the landlord is entitled to recover the amortized cost of re-carpeting the entire rental unit from the tenant (\$1,029.52).

Pursuant to section 72(1) of the Act, as the landlord has been successful in this application, it may recover the filing fee from the tenant.

Pursuant to section 72(2) of the Act, the landlord may retain the security deposit in partial satisfaction of the monetary order sought.

Conclusion

I order that the tenant pay the landlord \$788.92, representing the following:

Cleaning Costs	\$626.90
Amortized Carpet Replacement Cost	\$1,029.52
Filing Fee	\$100.00
Security Deposit Credit	-\$967.50
Total	\$788.92

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: March 31, 2020

Residential Tenancy Branch