



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 MND, FF

Introduction

This matter originally convened by teleconference hearing on May 1, 2020 to deal with the landlord's application for dispute resolution under the Residential Tenancy Act (Act) for:

- compensation for alleged damage to the rental unit by the tenants; and
- recovery of the filing fee.

The landlord's agents (agents) and the tenants attended the hearing on May 1, 2020, at which time the matter of evidence issues was discussed. As a result of that discussion, the hearing was adjourned. An Interim Decision was filed on May 4, 2020, which is incorporated by reference and should be read in conjunction with this Decision.

In the Interim Decision, I ordered the hearing be adjourned and reconvened on the date and time contained in the attached Notice of Adjourned Hearing. The parties were advised that the hearing would continue with or without their presence.

At the reconvened hearing, the landlord's agents attended; however, neither tenant attended, although the hearing continued for 29 minutes.

At the reconvened hearing, the agents were provided the opportunity to present their evidence orally and to refer to relevant evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and other evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation for damage or loss from the tenants and to recovery of the filing fee?

Background and Evidence

The agents provided evidence that this tenancy began on July 15, 2014 and ended on November 14, 2019. The beginning monthly rent was \$1,720 and the ending monthly rent was \$1,982. The agents also said that the tenants paid a security deposit of \$860, which they have kept, having made this claim against it. The landlord filed a copy of the written tenancy agreement.

The landlord's monetary claim is as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Unpaid utilities bill	\$46.67
2. RTB filing fee	\$100.00
3. Parking hangar	\$15.00
4. Drapery cleaning	\$122.85
5. Carpet cleaning	\$125.00
6. Oven cleaning – excessive	\$55.00
7. General suite cleaning	\$30.00
8. Drywall repairs	\$45.00
9. Replacement of bathtubs	\$3,289.07
10. Staff time, replacing microwave door	\$30.00
11. Kitchen cabinet door replacement	\$72.80
12. Tile repair, front of refrigerator	\$315.00
13. Burnt out lightbulbs	\$10.00
14. 2 bathtub tile surround	\$1,539.62
15. Replace curtain tracks	\$518.01
16. Replacement of bathtubs (50% amortization)	-\$1,644.53
17. Tile installation (50% amortization)	-\$769.81
TOTAL	\$3,899.68

In support of their application, the landlord's agents testified to the following:

The landlord's agents testified that the tenants did not leave all of the rental unit reasonably clean prior to their departure. For instance, the carpets and draperies were not professionally cleaned, as they were when the tenants moved into the rental unit. The written tenancy agreement provides that the carpets and draperies are to be professionally cleaned at the end of the tenancy.

Additionally, some areas of the rental unit required extra cleaning and minor repairs, which were performed by the staff of the residential property. One of the repairs was to replace the curtain tracks, as the tenants installed their own curtain rods.

The tenants failed to return the parking hangar and it was replaced. The tenants left owing utilities assessed by the local municipality.

As to the tile around the tub, the tub was installed 2 weeks prior to the tenancy, but as the tenants caused extensive damage to the tubs, the tiles had to be replaced. The landlord's agents explained that the tubs could not be removed without damaging the tiles, so they are asking 50% of the amortized value of the tub installation and tile surround, to account for the age of the tubs and tiles.

When the tenants left, there were two burnt out bulbs, at the cost of \$5 each.

The landlord provided photos depicting the damage and dirty areas of the rental unit and receipts and invoices for the claimed costs.

The tenants did not attend the hearing and no evidence or submissions were provided by them, despite the hearing being adjourned so that the tenants could properly review the landlord's evidence and submit their own evidence.

Analysis

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 that party not complying with the Act, the regulations or a tenancy agreement, and

order that party to pay compensation to the other party. The claiming party, the landlord here, has the burden of proof to substantiate their claim on a balance of probabilities.

I find the landlords submitted sufficient and uncontested evidence to support that the rental unit was not left reasonably clean and that the damage claimed was beyond reasonable wear and tear.

I have reviewed the landlord's photographic evidence along with the receipts and invoices for the amounts claimed. Upon review of the photographs, I find the costs claimed to be reasonable, considering the state of the rental unit and the damage depicted. I also find the landlords reasonably and correctly assessed the depreciated value of the tubs and tiles, rather than the full cost.

I therefore find the landlord has submitted sufficient evidence to support all but one item in their monetary claim, that being the light bulb replacement.

Policy Guideline 1 states that a landlord is responsible for, among other things, replacing light bulbs in hallways and other common areas; the tenant is responsible for replacing light bulbs during their tenancy.

I interpret this Guideline to provide that a landlord is not responsible for replacing light bulbs during the tenancy if a tenant asks, so long as they were working at the time of move-in. I find it is the tenant's choice to replace light bulbs during the tenancy.

Further, I find it reasonable to determine that light bulbs that are burnt out at the end of the tenancy to be reasonable wear and tear.

I dismiss the landlord's claim for \$10 to replace the light bulbs.

Due to the above, I find the landlord has established a total monetary claim as described on the table contained on page 2 of this Decision, with the exception of the deduction of \$10 for light bulbs, or a total amount of \$3,889.68.

At their request, I direct the landlord to retain the tenants' security deposit of \$860 in partial satisfaction of their monetary award of \$3,889.68.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due in the amount of \$3,029.68.

Should the tenants fail to pay the landlord this amount without delay after being served the order, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The tenants are advised that costs of such enforcement are subject to recovery from the tenants.

Conclusion

The landlord's application for monetary compensation is granted, they have been authorized to retain the tenants' security deposit and they have been awarded a monetary order for the balance due, in the amount of \$3,029.68.

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 24, 2020

Residential Tenancy Branch