



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 468543 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNDC, MNSD, FF

Introduction

On June 25, 2020, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for a monetary order for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement; for a monetary order for damage; to keep a security deposit; and to recover the cost of the filing fee.

The matter was set for a conference call hearing. The Landlords agents (“the Landlord”) and Tenant attended the teleconference hearing.

At the start of the hearing I introduced myself and the participants. The hearing process was explained. The evidence was reviewed and confirmed received by each party. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The parties previously participated in a dispute resolution hearing and the matter of the security deposit was considered by the Arbitrator.

I cannot re-hear and change or vary a matter already heard and decided upon as I am bound by the earlier decision, under the legal principle of Res Judicata. Res judicata is a rule in law that a final decision, determined by an officer with proper jurisdiction and

made on the merits of the claim, is conclusive as to the rights of the parties and constitutes an absolute bar to a subsequent Application involving the same claim. Since the matter of the security deposit was already considered the Landlords claim to keep the security deposit is dismissed.

Issues to be Decided

- Is the Landlord entitled to a monetary order due to damage to the rental unit?
- Is the Landlord entitled to a monetary order for money owed or damage or loss?

Background and Evidence

The Landlord and Tenant testified that the tenancy began on May 1, 2019. Rent in the amount of \$3,300.00 was due to be paid to the Landlord by the first day of each month. The Landlord provided a copy of the tenancy agreement.

The parties participated in an earlier hearing where the Arbitrator found that the tenancy ended on June 3, 2020.

Damaged Doors

The Landlord testified that that two doors were found to be damaged at the end of the tenancy. The Landlord testified that there is a hole in the door to the suite and damage to a bathroom door. The Landlord provided a photograph of a door with a hole in it. The Landlord provided a photograph of a bathroom door with a large hole in it.

The Landlord provided an invoice from a building supply store dated June 8, 2020 for the purchase of two replacement doors.

The Landlords witness testified that on June 5, 2020 a small hole was observed on the inside of the suite door.

In reply, the Tenant testified that there was only one damaged door. The Tenant testified that the suite door was not damaged by the Tenants and the hole was not present when the Tenants moved out.

Baseboards

The Landlord testified that several baseboards in the rental unit were found to be chewed and damaged by the Tenants dog and needed to be replaced. The Landlord provided photographs of damaged baseboards. The Landlord removed and replaced

the damaged baseboards. The Landlord provided photographs of the damaged baseboards. The Landlord provided a copy of an invoice from a building supply store dated June 8, 2020 for the purchase of 32 feet of baseboard.

In reply, the Tenant testified that any damage present was wear and tear from the previous occupants. The Tenant submitted that the damage was not caused by them.

The Landlord testified that a condition inspection report was not completed at the start of the tenancy. The Landlord testified that there was a tenant occupying the rental unit previously, but the rental unit was in pristine shape.

Lights

The Landlord testified that led lights in the rental unit were found to be burned out. The Landlord is seeking \$19.38 for the cost of a replacement bulb. The Landlord provided an invoice for the purchase of a 4 pack of LED lights at a cost of \$19.38.

In reply, the Tenant testified the bulb was not burned out, there is an electrical short in the light fixture.

Smoke Alarms

The Landlord testified that there are seven smoke alarms in the rental unit and the landlord replaced the batteries in 4 of the alarms. The Landlord purchased 8 batteries. The Landlord provided an invoice for the amount of \$31.56.

In reply, the Tenant testified that she had already removed the smoke alarms because they were chirping. She testified that she replaced the batteries in the alarms, but they continued to chirp.

Glass Replacement

The Landlord testified that a glass windowpane in the garage door was found to be missing and needed replacement. The Landlord testified that the garage door window has two panes, an interior pane and an exterior pane. Then Landlord testified that the weather stripping was found to be hanging down and the interior pane was missing. The Landlord provided a photograph of the garage door.

The Landlord testified that another window was found to be cracked. The Landlord provided a photograph of the window.

The Landlord provided a copy of an invoice from a glass company dated June 25, 2020 for the purchase and installation of windows.

In reply, the Tenant testified that there was weather stripping hanging out by a foot, but the Tenant did not pay any attention to whether or not there were two windowpanes when the tenancy began. The Tenant testified that she never noticed a crack in the other window.

Utilities

The Landlord testified that all utility costs were the responsibility of the Tenant. The Landlord went to the city and was informed that water and garbage collection had not been paid for a year. The Landlord is seeking to recover \$880.61 for the cost of the water and garbage collection. The Landlord provided an invoice.

In reply, the Tenant testified that she was responsible to pay hydro, cable, and gas. She testified that when the water and garbage bill arrived, she would give it to the Landlord's dad who lived next door.

Cleaning and Labor Costs

The Landlord is seeking compensation of \$360.00 for the labor cost related to replacing the doors; replacing baseboards; touch up painting; yard work; and dumping costs. The Landlord submitted that he performed 17 hours of cleaning in the rental unit and is seeking \$525.00. the Landlord provided photographs of the rental unit taken at the end of the tenancy.

In reply, the Tenant testified that the Tenant maintained the yard and no refuse was left in the yard. The Tenant acknowledged that there were some holes left in a wall due to a television mount that was not patched by the Tenant.

The Tenant submitted that the house was left clean and referred to the video provided by the Tenant showing the condition of the rental unit at the end of the tenancy.

The Landlord replied that there was food left in the fridge at the time of the move out inspection. The Landlord's witness testified that she assisted the Landlord with cleaning the fridges after the inspection.

Analysis

When a party makes a claim for damage or loss, the burden of proof lies with the applicant to establish the claim. To prove the claim, the Applicant must satisfy the following four elements on a balance of probabilities:

1. Proof that the damage or loss exists;
2. Proof that the damage or loss occurred due to the actions or neglect of the Respondent in violation of the Act, Regulation, or tenancy agreement;
3. Proof of the actual amount required to compensate for the claimed loss; and,
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Sections 23 and 35 of the Act provides that a Landlord and Tenant together must inspect the condition of the rental unit on the day the Tenant is entitled to possession of the rental unit, and at the end of the tenancy before a new tenant begins to occupy the rental unit. Each section also requires that the Landlord complete the condition inspection report; both the Landlord and Tenant must sign the condition inspection report; and the Landlord must give the Tenant a copy of that report in accordance with the regulations.

Section 24 (2) of the Act provides that the right of the Landlord to claim against a security deposit or a pet damage deposit, or both, for damage to residential property is extinguished if the Landlord having does not offer the Tenant opportunities for an inspection and complete an inspection report in accordance with the regulations.

A properly completed inspection report is considered to be evidence of the state of repair and condition of the rental unit or residential property on the date of the inspection, unless either the landlord or the tenant has a preponderance of evidence to the contrary.

Residential Tenancy Branch Policy Guideline #1 Landlord & Tenant – Responsibility for Residential Premises provides the following information:

The tenant must maintain "reasonable health, cleanliness and sanitary standards" throughout the rental unit or site, and property or park. The tenant is generally responsible for paying cleaning costs where the property is left at the end of the tenancy in a condition that does not comply with that standard. The tenant is also generally required to pay for repairs where damages are caused, either deliberately or as a result of neglect, by the tenant or his or her guest.

Based on the evidence before me, the testimony of the Landlord and Tenant, and on a balance of probabilities, I make the following findings:

Doors

The Tenant accepted responsibility for damage to the bathroom door. With respect to the other suite door; the Tenant denied responsibility and the Landlord provided a photograph of a two-inch hole in a door.

The Landlord bears the burden of proof that the Tenant is responsible for the damage. The Landlord did not provide a condition inspection report completed at the start of the tenancy. The Landlord did not conduct a move in inspection as required under the Act. A move in condition report would show whether or not the damage was present at the start of the tenancy. I find that the Landlord has provided insufficient evidence that the Tenant is responsible for the damage to the suite door.

The Landlord is granted compensation for the cost to replace the bathroom door. I award the Landlord the amount of \$56.99. for the cost of one door.

Baseboards

I have considered the Landlord's photographic evidence of damage to the baseboards. The Landlord provided photographs of damage to baseboards and of the baseboard replacement. Two of the Landlord's photographs show minor corner damage to small 10 to 12-inch pieces of baseboard. On the other photograph, no visible damage is detectable.

The Tenant suggested that any damage is attributable to a previous Tenant. Since the Landlord failed to conduct a move in inspection as required under the Act, the Landlord does not have evidence of the condition of the baseboards at the start of the tenancy.

The Landlord has failed to prove that the Tenant is responsible for damage to the baseboards. The Landlord's claim is dismissed.

Lights and Batteries

With respect to the smoke detectors, a Landlord must install and keep smoke alarms in good working condition. The Landlord testified that he replaced the batteries in four of the alarms. I find that the batteries were not missing, and there is insufficient evidence

from the Landlord that the batteries were dead. The Tenant testified that she had replaced the batteries.

I find that the Landlord's decision to replace the batteries amounts to normal maintenance. The Landlords claim to recover the cost of four batteries is dismissed.

With respect to the led light, the Tenant testified that the bulb was not burned out, but rather the light has a short. The Landlord did not respond to the Tenants submission that there is a short in the light. The Landlord did not provide evidence showing a burned-out bulb.

The Landlord's claim to recover the cost of a burned-out led light is dismissed.

Glass Replacement

The Tenant denied responsibility for damaging the windows.

The Landlord bears the burden to prove that the Tenant is responsible for a missing windowpane and is responsible for another window that is cracked. The Landlord failed to conduct a move in inspection as required under the Act. The Landlord does not have sufficient proof of the condition and state of repair of the garage door window, and other window at the start of the tenancy.

I find that there could be many reasons why the window is cracked. There is insufficient evidence that the Tenant is responsible for the cracked window due to deliberate actions or neglect of the Tenant.

The Landlord's claim for window replacement costs are dismissed.

Utilities

I have reviewed the tenancy agreement provided by the Landlord. I find that water and garbage collection are not included in the rent. I find that the Tenant is responsible for the costs of water and garbage collection.

I accept the Landlords evidence of these unpaid utility costs. I award the Landlord the amount of \$880.61 for unpaid utility charges.

Cleaning

I have reviewed the evidence provided by the parties. I find that the seven video files provided by the Tenant show that the rental unit was left in reasonably clean condition. I note that the video recordings show food in a refrigerator.

With respect to cleanliness, the Landlords photographic evidence shows a closer view of the rental unit. The Landlords evidence shows an unclean door; nail / screw holes in a bedroom wall; a dirty exhaust vent; unclean oven; unclean refrigerator; overgrown weeds in yard.

I find that the Tenants video evidence did not include clear footage that the unclean items mentioned by the Landlord were left clean.

I find that the Landlord has provided the better evidence that areas of the rental unit were left unclean. I find that the Tenant is responsible to compensate the Landlord the cost to clean the rental unit.

I find that the Landlords claim for cleaning is inflated. Based on the evidence before me, I find that it is reasonable to award the Landlord for 10 hours of cleaning at \$25.00 per hour.

I award the Landlord \$250.00 for cleaning costs.

Labor Costs

I find that the Tenant is responsible for the labor cost for the replacement of the damaged bathroom door and the cost to repair the nail/ screw holes in the wall and touch up the paint.

Based on the evidence before me, I find that it is reasonable to award the Landlord for 5 hours of labor at \$25.00 per hour.

I award the Landlord \$125.00 for labor costs.

Filing Fee

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

The Landlord has established a monetary award against the Tenant for damage and cleaning costs in the amount of \$1,412.60.

I grant the Landlord a monetary order in the amount of \$1,412.60. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that

court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Conclusion

The Landlord was partially successful with claims for cleaning and damage costs for the rental unit.

I grant the Landlord a monetary order in the amount of \$1,412.60.

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: November 4, 2020

Residential Tenancy Branch