



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDL-S, MNRL-S, MNDCL-S, FFL

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss, for a monetary Order for unpaid rent, for a monetary Order for damage to the rental unit; to keep all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

The Landlord stated that on August 07, 2020 the Dispute Resolution Package and evidence the Landlord submitted to the Residential Tenancy Branch in July of 2020 was sent to the Tenant, via registered mail. The Tenant acknowledged receipt of these documents, with the exception of the photographs submitted. The evidence the Tenant acknowledged receiving was accepted as evidence for these proceedings.

The Tenant was given the opportunity for an adjournment for the purposes of having the aforementioned photographs re-served to her. She stated she did not wish an adjournment and that she was willing to permit those photographs to be considered as evidence, based on my description of the photographs.

On September 29, 2020 the Landlord submitted evidence to the Residential Tenancy Branch. The Landlord stated that this evidence was served to the Tenant, via registered mail, on September 29, 2020. The Tenant acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

The Landlord stated that on August 19, 2020 the Landlord submitted a water bill as evidence. The Landlord stated that this evidence was served to the Tenant, via registered mail, on August 20, 2020. The Tenant acknowledged receiving this

evidence. The parties were advised that I was not in possession of this evidence, however both parties agreed on the content of the bill and I was, therefore, able to consider it is evidence based on the testimony of the parties.

The participants were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each participant affirmed that they would provide the truth, the whole truth, and nothing but the truth at these proceedings.

Issue(s) to be Decided

Is the Landlord entitled to compensation for damage to the rental unit, to compensation for unpaid rent, and to keep all or part of the security deposit?

Background and Evidence

The Landlord and the Tenant agree that:

- the tenancy began on October 15, 2019;
- the tenancy ended on July 15, 2020, by mutual agreement;
- the Tenant agreed to pay monthly rent of \$3,600.00 by the fifteenth day of each month;
- the Tenant paid a security deposit of \$1,800.00;
- the Tenant paid a pet damage deposit of \$600.00; and
- the Tenant provided the Landlord a forwarding address, by email and text message, in July of 2020;
- the Tenant still owes \$3,000.00 in rent for the period between April 01, 2020 and June 30, 2020;
- the Landlord provided the Tenant with a repayment plan for the aforementioned unpaid rent, which declared that the first payment of \$300.00 was due on October 01, 2020;
- the Tenant has not made any of the payments on the aforementioned repayment plan; and
- the Tenant has not agreed to any other repayment plan.

The Landlord is seeking compensation, in the amount of \$1,674.75, in part, for repair several areas that were chewed by the Tenant's dog. The Tenant does not dispute that her dog chewed several areas in the rental unit, including the railing banister, a door stop, and some trim.

The Tenant stated that the railing banister was repaired by the Tenant with wood filler and stain. The Landlord stated that the repairs to the railing banister were inadequate. The parties agree that the Tenant did not repair all of the scratches on the railing banister, as described to the Tenant in the photographs.

The Landlord is seeking compensation, in the amount of \$1,674.75, in part, for repairing a broken drawer in the master bedroom closet. The Tenant stated that the drawer was not damaged at the end of the tenancy. The Landlord and the Tenant agree that the damage to the drawer was not noted on the final condition inspection report that was completed on July 15, 2020. The Landlord stated that this damage was not noted on the final condition inspection report, as the Landlord did not notice the damage during the final inspection.

The Landlord is seeking compensation, in the amount of \$1,674.75, in part, for repairing frosted windows. The Landlord stated that the frosted windows at the front door and near the master bathroom were scratched and damaged. She stated that the windows were repaired by removing the cosmetic film, leaving the glass without frosting.

The Tenant agrees that one frosted window at the front door was scratched and one frosted window near the master bathroom was damaged. She stated that not all of the frosted windows in those areas were damaged.

The Landlord is seeking compensation, in the amount of \$172.80, for cleaning the carpet. The Landlord stated that there was a urine stain on the stairs. The Landlord submitted a photograph that she says demonstrates that the carpet needed cleaning. This photograph was described to the Tenant as a very poor quality photograph of what appears to be staining on a material of some sort, which may be carpet.

The Tenant stated that the carpet was cleaned at the end of the tenancy and that there was no urine stain on the stairs. The Tenant stated that the carpet was still wet at the end of the tenancy, which may explain the photograph I described to her. The Landlord does not know if the carpet was still wet at the end of the tenancy, as she was not present at the final inspection.

The Landlord stated that the male Landlord spent approximately 30 hours repairing the aforementioned deficiencies in the rental unit, which included repairing and painting areas chewed by the dog, obtaining supplies, repairing the drawer (1 hour), and repairing the etched glass (4 hours).

The Landlord and the Tenant agree that:

- the Tenant was required to pay for water charges incurred during the tenancy;
- the water bill was in the Tenant's name; and
- the Tenant did not pay water charges of \$687.25 which were incurred during the tenancy.

The Landlord stated that the rental unit has been sold and the Landlord paid the outstanding water bill of \$687.25 to avoid a lien being placed on the unit by the water company.

The Tenant submits that she owes the \$687.25 to the water company and she does not believe the Landlord would have paid that bill on her behalf.

Analysis

On the basis of the undisputed evidence, I find that the Tenant did not pay \$3,000.00 in rent that was due for the period between April 01, 2020 and June 30, 2020. Section 26 of the *Residential Tenancy Act (Act)* requires tenants to pay rent when it is due. As the Tenant has not paid \$3,000.00 in rent that was due, I find that she owes the Landlord \$3,000.00.

On the basis of the undisputed evidence, I find that the Landlord provided the Tenant with a repayment plan for the unpaid rent, which declared that the first payment of \$300.00 was due on October 01, 2020, and that the Tenant has not made any of the payments on the aforementioned repayment plan. As the Tenant has not made any of the payments from the proposed repayment plan, she has not agreed to any other payment plan, and she has vacated the rental unit, I find that the entire \$3,000.00 in unpaid rent is due in full.

When making a claim for damages under a tenancy agreement or the *Act*, the party making the claim has the burden of proving their claim. Proving a claim in damages includes establishing that damage or loss occurred; establishing that the damage or loss was the result of a breach of the tenancy agreement or *Act*; establishing the amount of the loss or damage; and establishing that the party claiming damages took reasonable steps to mitigate their loss.

On the basis of the undisputed evidence I find that the Tenant failed to comply with section 37(2) of the *Act* when the Tenant failed to fully repair all of the areas chewed by her dog during the tenancy. On the basis of the nature of the damage described, I find

it reasonable that it took the Landlord approximately 25 hours to repair the damage, including time spent obtaining supplies, making repairs, painting, and cleaning. I therefore find that the Landlord is entitled to compensation for repairing these areas, at an hourly rate of \$20.00, which equates to \$500.00. The Tenant submitted no receipts for materials and, as such, have not been awarded compensation for materials.

I find that the Landlord submitted insufficient evidence to establish that a drawer in the master bedroom closet was broken at the end of the tenancy. In reaching this conclusion I was heavily influenced by the undisputed evidence that the damage to the drawer was not recorded on the final condition inspection report that was completed at the end of the tenancy.

Section 21 of the *Residential Tenancy Regulation* stipulates that a condition inspection report completed is 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. As the parties agree that the final condition inspection report does not indicate that the drawer is broken and the Landlord did not submit sufficient evidence that shows it was broken at the end of the tenancy, I find that I must rely on this report.

As the final condition inspection report does not show the drawer was broken at the end of the tenancy, I dismiss the Landlord's claim for repairing the drawer.

On the basis of the undisputed evidence I find that the Tenant failed to comply with section 37(2) of the *Act* when the Tenant failed to fully repair all of the frosted windows that were damaged during the tenancy. Even if I accepted that only one of the frosted windows near the front entry and one near the master bathroom were damaged, I find that the Landlord is entitled to compensation for removing all of the frosting from those areas, as it would not be aesthetically pleasing to have one clear window and one or more frosted window in that area.

On the basis of the nature of the damage described, I find it reasonable that it took the Landlord approximately 4 hours to remove the frosting from the windows near the front entry and the master bathroom. I therefore find that the Landlord is entitled to compensation for repairing these areas, at an hourly rate of \$20.00, which equates to \$80.00. The Tenant submitted no receipts for materials and, as such, have not been awarded compensation for materials.

I find that the Landlord has submitted insufficient evidence to establish that the carpet required cleaning at the end of the tenancy. In reaching this conclusion I was influenced by the Tenant's testimony that she had it professionally cleaned at the end of the tenancy. I find that the photograph submitted in evidence by the Landlord is not sufficient to refute the Tenant's testimony, because the photograph is so unclear, I can not even be certain it is a carpet.

As the Landlord has submitted insufficient evidence to establish that the carpet needed cleaning at the end of the tenancy, I dismiss the claim for cleaning the carpet.

On the basis of the undisputed evidence, I find that the Tenant was required to pay for water charges incurred during the tenancy; that the water bill was in the Tenant's name; and that Tenant did not pay water charges of \$687.25 which were incurred during the tenancy.

On the basis of the testimony of the Landlord and in the absence of evidence to the contrary, I find that the Landlord paid the outstanding water bill of \$687.25 because they were selling the rental unit and they did not want the water company to place a lien on the unit. I therefore find that the Tenant must pay the \$687.25 water charges to the Landlord.

In the event the Tenant determines the Landlord has not paid the outstanding water charges, the Tenant has the right to file an Application for Review Consideration on the basis of fraud.

I find that the Landlord's Application for Dispute Resolution has merit and that the Landlord is entitled to recover the fee for filing this Application for Dispute Resolution.

Conclusion

The Landlord has established a monetary claim, in the amount of \$4,367.25, which includes \$3,000.00 in unpaid rent; \$580.00 for repairs, \$687.25 in water charges, and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to retain the Tenant's security/pet damage deposit of \$2,400.00 in partial satisfaction of this monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance \$1,967.25. In the event the Tenant does not voluntarily comply with this Order, it may

be served on the Tenant, filed with the Province of British Columbia Small Claims 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 *Act*.

Dated: November 22, 2020

Residential Tenancy Branch