



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Associa BC Inc
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR MNDC MNSD FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held, by teleconference, on December 3, 2020. The Landlord applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "Act").

The Landlord attended the hearing. The Tenants did not attend the hearing. The Landlord stated that she sent the Tenants each a copy of the Notice of Hearing and evidence by registered mail on August 21, 2020, to the forwarding address provided during the move out inspection. Proof of mailing was provided. Pursuant to section 89 and 90 of the Act, I find the Tenant is deemed to have received this package on August 26, 2020.

The Landlord uploaded further evidence (updated invoice amounts) on or around November 18, 2020, and November 19, 2020. The Landlord stated that she sent these updated invoices to the Tenants by registered mail on November 18, 2020. As stated in the hearing, and according to the Rules of Procedure, all evidence the Landlord was to rely on at the hearing was to be received by the Tenants no later than 14 days before the hearing. As this was not done, the new evidence will not be considered. However, the Landlord was given a chance to provide testimony regarding the updated amounts. The Landlord ended up reducing the initial claim, which will be laid out below.

Further, the Landlord initially applied to recover unpaid rent. However, she wished to withdraw this item, and to amend her application. I hereby amend the Landlord's application to remove this item, as it is not prejudicial to the Tenants to do so.

The Landlord was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. 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.

Issues to be Decided

- Is the Landlord entitled to a monetary order for damage or loss under the Act?
- Is the Landlord entitled to retain all or a portion of the Tenants' security deposit in partial satisfaction of the monetary order requested?
- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The Landlord stated that the Tenants moved into the rental unit on December 1, 2018, and moved out on July 31, 2020. Monthly rent was set at \$1,450.00 at the start of the tenancy, and the Landlord still holds a security deposit in the amount of \$725.00. A move-in inspection and a move-out inspection was completed. The inspection report was provided into evidence. The Landlord also provided photos taken at the end of the tenancy showing damage to the unit.

At the time the Landlord filed their application, they were seeking \$1,600.00 for damage to stairs in the lobby of the building, stained pillow cases, lost desk hardware, broken blinds, and burned out lights.

At the hearing, the Landlord stated she is no longer seeking a few of the above noted items, and is only seeking the following items:

- 1) \$656.25 – Damaged to stairs in lobby area

The Landlord stated that when the Tenants were moving out, they damaged the edge of one of the tile stairs in the lobby area. The Landlord stated that the Tenants were captured on video surveillance dropping a large piece of furniture when they were moving furniture out at the end of their tenancy. The Landlord explained that the Tenants tried to move out, without properly booking an elevator, and when they were trying to move their belongings out the side entry, they significantly damaged the “nose” of the stair, such that the whole tile stair had to be jackhammered out, and re-tiled. The Landlord explained that the strata has sent an invoice for the above noted amount, and

the repairs will be completed shortly. A photo of the damaged stair was provided into evidence.

2) \$537.60 – Blinds

The Landlord stated that the Tenants ripped the roll-down blind in the rental unit, and fixed it with tape. The Landlord explained that the blind was not repairable, and the rollershade was pulled away from the assembly. The Landlord stated that the blind was also heavily stained. The Landlord stated that the blind was brand new at the start of the tenancy, and was less than 2 years old at the time the Tenants moved out. The Landlord stated that the blind had to be replaced at the above noted cost.

3) \$180.00 – Light Bulbs

The Landlord explained that they had to hire an electrician to come and move some light fixtures, and to replace some burned out light bulbs in the rental unit. The Landlord stated that they actually paid \$222.08 for all this work, but are only seeking \$180.00 because some of the costs were related to moving light fixtures. The Landlord stated there were several light bulbs that burned out during the tenancy (regular bulbs). However, she was unsure how many. The Landlord stated that they have an electrician manage any electrical issues, as they are not around to complete simple things such as replacing light bulbs. The Landlord explained that the electrician's invoice was not broken down or itemized such that it could be known what amount of the bill was for moving the fixtures, and what was for replacing light bulbs.

Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim.

In this instance, the burden of proof is on the Landlord to prove the existence of the damage/loss and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Tenants. Once that has been established, the Landlords must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Landlord did everything possible to minimize the damage or losses that were incurred.

1) \$656.25 – Damaged to stairs in lobby area

I accept the undisputed testimony and evidence on this matter. I accept that the Tenants caused damage to a tile stair in the lobby area at the time they were moving out. I accept that this is an amount the Landlord will have to pay the strata, once the strata completes the work. I find the Tenants are liable for this amount, in full.

2) \$537.60 – Blinds

I note the blinds were only two years old, or less, at the time the Tenants moved out, and I note this type of item is typically expected to last around 10 years, as per policy guideline #40 (Useful Life of Building Elements). I find the damage caused was well beyond normal wear and tear, and I accept that the blind would have required replacement, due to the damage caused by the Tenants. I note a photo was provided to show the damage. I award this item, in full.

3) \$180.00 – Light Bulbs

I have considered the testimony and evidence on this matter, and I note the Landlord obtained one invoice for all work completed by the electrician. I note the electrician came to change light bulbs, which burned out during the tenancy. However, I also note the Landlord asked him to move some fixtures, which took an unknown amount of time, and were not itemized. Common sense and ordinary human experience would suggest that it would take much longer to move a light fixture, than it would to replace a regular light bulb. I do not find the Landlord has sufficiently demonstrated the value of their loss on this amount, as the invoice includes items which the Tenants are not liable for. However, I accept that there were burned out bulbs, which the Tenants should have replaced.

I note I may also award compensation in situations where establishing the value of the damage or loss is not as straightforward:

“Nominal damages” are a minimal award. Nominal damages may be awarded where there has been no significant loss or no significant loss has been proven, but it has been proven that there has been an infraction of a legal right.

In this case I find a nominal award is appropriate for the costs to replace a “few” lightbulbs. I award \$50.00 for the time and materials spent to remedy this matter.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. As the Landlord was substantially successful with this

application, I order the Tenants to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution. Also, I authorize the Landlord to retain the security deposit to offset the other money owed.

In summary, I find the Landlord is entitled to the following monetary order:

Item	Amount
Stair repair	\$656.25
Blind replacement	\$537.60
Light bulbs	\$50.00
PLUS: Filing Fee	\$100.00
Subtotal:	\$1,343.85
LESS: Security and Pet Deposit	\$725.00
Total Amount	\$618.85

Conclusion

The Landlord is granted a monetary order in the amount of **\$618.85**, as specified above. This order must be served on the Tenants. If the Tenants fail to comply with this order the Landlord may file the order in the Provincial Court (Small Claims) and be 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 *Residential Tenancy Act*.

Dated: December 03, 2020

Residential Tenancy Branch