



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, FFL

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for damages to the unit - Section 67;
2. An Order to retain the security deposit - Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Preliminary Matter

The Landlord also seeks to retain \$94.50 from the security deposit in relation to a shower overflow. The Landlord has an invoice for this amount but has not provided it for the hearing and confirms that this item of damage was not included in the particulars of the application or the monetary order worksheet. The Landlord confirms that the Tenants did not provide written authorization for this amount to be deducted.

Rule 2.2 of the Residential Tenancy Branch Rules of Procedure provides that claims are limited to what is stated in the application. As no claim for damages in relation to the shower was included in the application and as the Landlord did not make an amendment to the application to include the particulars of this claim I find that the

Landlord may not now pursue the monetary claim with its current application. The Landlord has leave to reapply for this cost.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The following are agreed facts: the tenancy under written agreement started on February 1, 2020. At the outset of the tenancy the Landlord collected \$1,100.00 as a security deposit and \$650.00 as a pet deposit. The Parties mutually conducted a move-in inspection with the completed inspection report copied to the Tenants. Rent of \$2,200.00 was payable on the first day of each month. On August 1, 2021, the Tenants moved out of the unit and on August 2, 2021, the Parties mutually conducted a move-out inspection with a completed inspection report copied to the Tenants. The Tenants provided their forwarding address on the move-out report. The Landlord returned \$566.20 of the deposits to the Tenants leaving the Landlord holding a deposit of \$1,183.80.

The Landlord's Agent (the "Agent") states that the Tenants left an exterior front door damaged with a vertical crack in the core of the door. The door is original to the house and about 25 to 30 years old. The Landlord claims \$279.20 as the cost to replace the door and \$210.00 for the labour costs to remove the door. The Tenant states that they did not see any crack in the door and did not cause any crack. The Tenant states that the move-out report does not mark this door as being damaged.

The Agent provides an invoice for 12 hours labour at \$50.00 per hour for the Landlord's own labour to repair damages to the unit as follows:

- Two hours to paint the rear door frame left damaged by the Tenants' dog. It is unknown when the door frame was last painted;

- Four hours to fill dog holes left by the Tenants and to prune the shrubs. The Agent confirms that the tenancy agreement does not include shrub pruning as part of the yard maintenance;
- One hour to scrub stains left on the enclosed garage floor that had been painted just prior to the start of the tenancy. The Agent confirms that this damage is not noted on the move-out report and states that the photos show dirt left on the floor; and
- Five hours of the Landlord's "running around" time spent on the front door.

The Tenant states that although their dog left a few scratches, the door frame had been scratched at move-in and those scratches were caused by the Landlord's dog while the Landlord was living in the unit just prior to the start of the tenancy. The Tenant confirms that the move-in report does not note damage to the door frame. The Tenant does not dispute that their dog left two holes in the yard but believes the Landlord's hourly rate is excessive for the filling of holes and suggest that a more reasonable rate would be \$25.00 to \$30.00 an hour. The Tenant states that the garage floor was swept and mopped at move-out. The Tenant states that there were no stains on the floor at either move-in or move-out.

Analysis

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. Policy Guideline #40 sets the useful life of a door at 20 years. Based on the Landlord's evidence that the front door was beyond 20 years old I find that the door was beyond its useful life at the end of the tenancy and that any costs to repair the door remain with the Landlord. I dismiss the claims for \$279.20, \$210.00 and the 5 hours of the Landlord's time or \$250.00 in relation to the front door.

Policy Guideline #40 sets the useful life of exterior paint at 8 years. There is no evidence to support that the door frame was painted at least 6 years prior to the tenancy. However, given the Tenant's evidence that their dog did leave some scratches and as no scratches were noted on the move-in report, I find that the Landlord has substantiated that the Tenant caused and left the damage. As the Landlord's claim for labour is not excessive and I note that the Landlord has not included any paint or other supply costs for the repair of the frame, I find that Landlord is entitled to compensation of 2 hours labour calculated to be **\$100.00**.

Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. This section further provides that where a landlord or tenant claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement the claiming party must do whatever is reasonable to minimize the damage or loss. As nothing in the tenancy agreement requires the Tenants to trim shrubs, I find that the Landlord has not substantiated any compensation for this yard work. Although the Tenant has not disputed that two holes were left to be filled in the yard, there is no way to determine how much time the Landlord spent on this repair as the Landlord's invoice only sets out a global time of 4 hours for all yard work. As a result, I find that the Landlord is only entitled to a nominal sum of **\$25.00** for repairing the holes.

The Agent's testimony is that the photos of the garage floor show dirt, and nothing is noted on the move-out report of any stains on the garage floor. For these reasons and given the Tenant's evidence that no stains or damage was left I find on a balance of probabilities that the Landlord has not substantiated that the Tenants left the garage floor damaged by stains. I dismiss the claim for labour on the garage floor.

As the Landlord's claims have met with limited success, I find that the Landlord is only entitled to recovery of half the filing fee in the amount of **\$50.00** for a total entitlement of

\$175.00. Deducting this amount from the deposit of **\$1,183.80** plus zero interest being held by the Landlord leaves **\$1,008.80** to be returned to the Tenants forthwith.

Conclusion

I Order the Landlord to retain \$175.00 from the security deposit plus interest of **\$1,183.80** in full satisfaction of the claim.

I grant the Tenant an order under Section 67 of the Act for **\$1,008.80**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

I grant an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia 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 *Residential Tenancy Act*.

Dated: March 2, 2022

Residential Tenancy Branch