



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL, FFL

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on October 12, 2021. The Landlord applied for the following relief, pursuant to the Residential Tenancy Act (the Act):

- a monetary order for the cost to repair damage that the Tenants, their pets or their guests caused during the tenancy; and
- an order granting recovery of the filing fee.

The Landlord and the Tenants attended the hearing and provided affirmed testimony.

The Landlord testified that the Notice of Dispute Resolution Proceeding package was served on the Tenants by email on October 20, 2021. The Tenants acknowledged receipt.

The Tenants testified the documentary evidence upon which they relied was served on the Landlord by email on April 18, 2022. The Landlord acknowledged receipt.

No issues were raised during the hearing with respect to service and receipt of the above documents. The parties were present and were prepared to proceed. Therefore, pursuant to section 71 of the Act, I find the above documents were sufficiently served for the purposes of the Act.

The parties were advised that Rule of Procedure 6.11 prohibits the recording of dispute resolution hearings.

The parties were provided with a full 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 and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to a monetary order for the cost to repair damage that the Tenants, their pets or their guests caused during the tenancy?
2. Is the Landlord entitled to an order granting recovery of the filing fee?

Background and Evidence

The parties agreed the tenancy began on July 1, 2016 and ended on October 31, 2020. At the end of the tenancy, rent was approximately \$2,167.00 per month. The Tenants paid a security deposit of \$975.00 and a pet damage deposit of \$975.00, which were dealt with in a previous decision and order issued on March 22, 2022. The file number of the previous matter is included above for ease of reference.

The Landlord's claim is particularized in a Monetary Order Worksheet dated October 12, 2021. However, the Landlord confirmed during the hearing that he was seeking only what was referred to on a hand-written invoice dated February 20, 2021, a copy of which was submitted into evidence.

First, the Landlord testified that the granite countertop had three chips on the kitchen side of the countertop that were caused during the tenancy. The Landlord testified this damage was first noticed when the rental unit was inspected on November 1, 2020. Two photographs depicting small chips in a countertop were submitted into evidence.

In reply, the Tenants testified that there were chips on the countertop at the beginning of the tenancy and that any further damage was normal wear and tear. The Tenants testified they helped the Landlord with various tasks at the end of the tenancy.

Second, the Landlord testified the electric cooktop was damaged during the tenancy. Specifically, the Landlord described a crack across an element, as well as “scarring” of an element from not cleaning it properly. The Landlord testified this damage was first noticed when the rental unit was inspected on November 1, 2020. The Landlord submitted a photograph of the damaged element.

In reply, the Tenants testified that bottom element was in pretty bad shape when they moved in. The Tenants testified that they resided in the rental unit for four years and that the stovetop looked worse and worse during the course of the tenancy.

Third, the Landlord testified that the laundry room doors were damaged during the tenancy. The Landlord described “extensive damage” on top and bottom of the doors near the “stoppers”, which was likely caused when doors opened and closed. The Landlord testified this damage was first noticed when the rental unit was inspected on November 1, 2020. The Landlord submitted photographs of the doors into evidence which show holes in the doors as described by the Landlord.

In reply, the Tenants testified there was damage on the doors when they moved into the rental unit but acknowledged the holes might have been made worse during the tenancy as a result of hardening rubber on the door stopper.

As noted above, the Landlord’s claim for damage was supported by a hand-written invoice dated February 20, 2021, confirming payment for the following repairs was made in full: \$500.00 to repair chips on a granite countertop; \$1,850.00 to replace an electric cooktop; \$525.00 to replace two closet doors; applicable taxes of \$143.75.

The Landlord’s claim for damage was also supported by a signed Condition Inspection Report which indicates that a move-in condition inspection occurred on June 25, 2016. No issues relating to the granite countertop, the electric cooktop, or the closet doors were indicated on the report. The Landlord testified further that he tried to schedule a move-out condition inspection but that the Tenants were not available. The Tenants disputed this assertion and testified that communication was good throughout the tenancy and that a move-out condition inspection could have been scheduled.

Finally, the Landlord claimed \$100.00 in recovery of the filing fee.

At the end of the hearing, the parties were given a final opportunity to provide evidence or make submissions that had not already been presented. The Landlord testified that there were only minor issues related to the payment of rent during the tenancy. The Landlord testified that they were “good Tenants” until the tenancy ended, which was disappointing.

The Tenants testified that they cleaned the rental unit at the end of the tenancy at a cost of \$250.00 and that any damage during the tenancy was a result of reasonable wear and tear. The Tenants also testified that nothing was said about the condition of the above items during the move-in condition inspection because they were happy to find a place to rent.

Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 67 of the Act empowers the director to order one party to pay compensation to the other if damage or loss results from a party not complying with the Act, the Residential Tenancy Regulation, or a tenancy agreement.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided for in sections 7 and 67 of the Act. An applicant must prove the following:

1. That the other party violated the Act, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss because of the violation;
3. The value of the loss; and
4. That the party making the application did what was reasonable to minimize the damage or loss

In this case, the burden of proof is on the Landlord to prove the existence of the damage or 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 Landlord must then provide evidence that can verify the value of the loss or damage.

Finally, it must be proven that the Landlord did what was reasonable to minimize the damage or losses that were incurred.

With respect to the Landlord's claim for \$500.00 to repair chips on the granite countertop, I find there is sufficient evidence before me to grant the relief sought. The Condition Inspection Report – a record of the condition of the rental unit at the beginning of the tenancy – makes no reference to damage to the countertops. However, the photographs submitted into evidence confirm the presence of chips in the granite countertop at the end of the tenancy. I find it is more likely than not that the damage was caused by the Tenants during the tenancy and that it is not reasonable wear and tear. Further, I am satisfied with respect to the value of the loss as indicated on the invoice provided. Therefore, I find the Landlord is entitled to a monetary award of \$500.00 plus applicable tax as indicated on the hand-written invoice.

With respect to the Landlord's claim for \$1,850.00 to replace an electric cooktop, I find there is sufficient evidence before me to grant the relief sought. The Condition Inspection Report makes no reference to damage to the cooktop when the tenancy began. However, the photographs submitted into evidence confirm the presence of damage as described by the Landlord. I find it is more likely than not that the damage was caused by the Tenants during the tenancy and that it is not reasonable wear and tear. Further, I am satisfied with respect to the value of the loss as indicated on the invoice provided. Therefore, I find the Landlord is entitled to a monetary award of \$1,850.00 plus applicable tax as indicated on the hand-written invoice.

With respect to the Landlord's claim for \$525.00 to replace laundry room doors, I find there is sufficient evidence before me to grant the relief sought. The Condition Inspection Report makes no reference to damage when the tenancy began. However, the photographs submitted into evidence confirm the presence of holes in the doors. In addition, the Tenants acknowledged that damage was caused during the tenancy but attributed the damage to the deterioration of the rubber rather than their treatment of the doors. I find it is more likely than not that the damage was caused by the Tenants during the tenancy and that it is not reasonable wear and tear. Further, I am satisfied with respect to the value of the loss as indicated on the invoice provided. Therefore, I find the Landlord is entitled to a monetary award of \$525.00 plus applicable tax as indicated on the hand-written invoice.

Having been successful, I find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application.

Pursuant to section 67 of the Act, I find the Landlord is entitled to a monetary order in the amount of \$3,118.75, which includes the amount indicated on the hand-written invoice (\$3,018.75) and recovery of the filing fee (\$100.00).

Conclusion

The Landlord is granted a monetary order in the amount of \$3,118.75. The order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: May 30, 2022

Residential Tenancy Branch