



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 dealt with the Landlords' Application for Dispute Resolution, made on August 9, 2022 (the "Application"). The Landlords applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage or loss;
- an order to retain the security deposit; and
- an order granting recovery of the filing fee.

The Landlord, the Tenant, and the Tenant's Advocate attended the hearing at the appointed date and time. At the start of the hearing, the Tenant confirmed receipt of the Landlord's Application and documentary evidence package. As such, I find these documents were sufficiently served pursuant to Section 71 of the *Act*. The Tenant confirmed that they did not submit any documentary evidence in response to the Landlord's Application.

Preliminary Matters

At the start of the hearing, the Tenant stated that the Landlord's Application indicated that they were seeking monetary compensation in the amount of \$7,000.00, whereas the Landlord's monetary order worksheet indicated that the Landlord was claiming for \$8,518.89. Despite the discrepancy, the Tenant indicated that they wished to continue with the hearing based on the Landlord's full monetary claims indicated on the monetary worksheet.

The parties were given an 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

1. Are the Landlords entitled to a monetary order for damage or loss, pursuant to Section 67 of the *Act*?
2. Are the Landlords entitled to retaining the security deposit, pursuant to Section 38, and 72 of the *Act*?
3. Are the Landlords entitled to an order granting recovery of the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The parties testified and agreed to the following; the tenancy began on November 1, 2015. During the tenancy, the Tenant was required to pay rent in the amount of \$1,000.00 to the Landlord each month. The Tenant paid a security deposit in the amount of \$500.00 which the Landlords continue to hold. The tenancy ended on June 30, 2022, however, the Tenant was in the process of removing their possessions until July 2, 2022. The Tenant provided their forwarding address to the Landlord on July 25, 2022 which the Landlord confirmed receipt of. The parties agreed that there was no condition inspection completed at the start, nor at the end of the tenancy.

The Landlords submitted a monetary order worksheet that they created, which contains the following claims;

The Landlords are claiming \$1,111.95 to replaced three broken blinds in the rental unit. The Landlord stated that one set of blinds was burnt while the other two were broken resulting in them not being able to go up and down. The Landlord stated that the blinds were replaced with new roller blinds as the original blinds were no longer available in stores. The Landlords provided a receipt in support.

The Tenant stated that the blinds where damaged during an extreme heatwave. The Tenant denied breaking the blinds. The Tenant stated that the blinds had surpassed their useful life and that the Landlord did not complete a condition inspection of the rental unit prior to the commencement of the tenancy. Lastly, the Tenant stated that the Landlords replaced the blinds with a different and more expensive style of window coverings, which were viewed in an advertisement of the rental unit. As such, the Tenant does not feel responsible for compensating the Landlords.

The Landlords are claiming \$252.00 for cleaning costs. During the hearing, the Tenant agreed that the rental unit required further cleaning and agreed to compensate the Landlord \$252.00 for cleaning.

The Landlords are claiming for compensation to replace damaged flooring and carpet throughout the entire rental unit. The Landlord stated that they had installed new carpet prior to the commencement of the tenancy. The Landlord stated that they are only seeking half of the cost associated with replacing the carpet and flooring in the amount of \$2,042.88 which is 50 percent of the overall cost. The Landlord stated that the carpet in the rental unit was stained and discoloured at the end of the tenancy. The Landlord stated that she did not try to clean the carpets, instead the Landlords replaced the carpet completely. The Landlord stated that the flooring had paint on it and decided to replace the flooring as well. The Landlords provided a receipt and pictures of the carpet in support.

The Tenant responded and stated that the Landlords did not mitigate their loss by not attempting to clean the carpets before determining they needed replacement. The Tenant stated that the carpets were 8 years old and have almost reached the end of their useful life. The Tenant stated that the discolouration seen on the carpets was from where the Tenant's furniture was sitting as opposed to the portions of carpet that were exposed to direct sunlight. The Tenant stated that there was only paint on one small section of the flooring and that the paint could have been removed using soapy water.

The Landlords are claiming for compensation relating to the replacement of all the kitchen cabinets as they were damaged during the tenancy. The Landlord stated that the cabinets were no fixable and required replacement. The Landlord stated that they are only seeking half of the cost associate with replacing the kitchen cabinets in the amount of \$3,937.50 which is 50 percent of the overall cost. The Landlords provided pictures and a receipt in support.

The Tenant stated that the cabinets were not damage and that they only needed to be cleaned. The Tenant stated that the condition of the cabinets was not recorded at the start of the tenancy and that the Landlords have not demonstrated that the cabinets had been damaged.

The Landlords are claiming \$263.20 to replace the bathroom door. The Landlord stated that the door was damaged by moisture in the bathroom and needed to be replaced. The Landlords provided a picture of the damage door and a receipt for the replacement

in support. The Tenant stated that they did not damage the door and that it can be attributed to regular wear and tear. The Tenant stated that the door could have just been repainted rather than replaced.

The Landlords are claiming \$155.68 to replace the bathroom faucet. The Landlord stated that the faucet was had a damaged handle and that it did not have full mobility. The Landlords are claiming \$155.68 to replace the kitchen faucet. The Landlord stated that the kitchen faucet handle was broken and couldn't stay up. The Tenant stated that the faucets had no issues with them at any point during the tenancy. The Tenant agree that they could have been cleaned further, which the Tenant had already agreed to compensate the Landlords for.

The Landlords are claiming \$600.00 for labour associated with removing the carpet and flooring throughout the rental unit, as well as for the removal of the kitchen cabinets. The Landlord stated that while they were removing the carpet, they found that they had blood on them. The Tenant denied any incidents that could have resulted in blood going on the carpets. The Tenant stated that the flooring and cabinets did not need to be replaced, only cleaned. The Tenant stated that the Landlords were motivated to renovate the rental unit and did not attempt to clean it.

If successful, the Landlords are also claiming for the return of the \$100.00 filing fee and to retain the Tenant's security deposit.

Analysis

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

Section 67 of the *Act* empowers me to order one party to pay compensation to the other if damage or loss results from a party not complying with the *Act*, regulations 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 as a result 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 Landlords 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 Tenant. 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 what was reasonable to minimize the damage or losses that were incurred.

According to the Residential Tenancy Policy Guideline 1;

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. The tenant is not responsible for reasonable wear and tear to the rental unit or site (the premises), or for cleaning to bring the premises to a higher standard than that set out in the *Residential Tenancy Act*.

The Landlords are claiming \$1,111.95 to replaced three broken blinds in the rental unit. The Landlord stated that the blinds were replaced with new roller blinds as the original blinds were no longer available in stores. In this case, I find that the Landlords have replaced the blinds with roller blinds which are not comparable to the blinds that had been in the rental unit. I find that the Landlords have provided insufficient evidence to demonstrate that comparable blinds were no longer available. I find that the Landlords have not mitigated their loss by purchasing more expensive blinds. I therefore dismiss the Landlords' claim without leave to reapply.

The Landlords are claiming \$252.00 for cleaning costs. During the hearing, the Tenant agreed that the rental unit required further cleaning and agreed to compensate the Landlord **\$252.00** for cleaning.

The Landlords are claiming for compensation to replace damaged flooring and carpet throughout the entire rental unit and is seeking \$2,042.88 which is 50 percent of the overall cost. During the hearing, the Landlord stated that they did not attempt to clean the carpet or flooring. Instead chose to replace it altogether. I find that the Landlords did not mitigate their loss by not attempting to remove the stains with a carpet cleaner. I find that the Landlords have provided insufficient evidence to demonstrate that all the flooring in the rental unit required complete replacement. As such, I dismiss this claim without leave to reapply.

The Landlords are claiming for compensation relating to the replacement of all the kitchen cabinets as they were damaged during the tenancy. The Landlord stated that the cabinets were no fixable and required replacement. The Landlords are \$3,937.50 which is 50 percent of the overall cost. In this case, I find that the Landlords have provided insufficient evidence to demonstrate that the cabinets in the rental unit were damaged and that all cabinet required complete replacement in the rental unit. I accept that the cabinets required further cleaning, which the Tenant has already agreed to compensate the Landlord for. As such, I dismiss this claim without leave to reapply.

The Landlords are claiming \$263.20 to replace the bathroom door. The Tenant stated the door was in poor condition at the start of the tenancy. I accept that the parties agreed that there was no condition inspection completed at the start of the tenancy. I find that without a condition inspection being conducted at the start of the tenancy, it is difficult to compare the condition of the rental unit prior to the commencement of the tenancy, to the condition at the end of the tenancy. As such, I find that the Landlord has provided insufficient evidence to demonstrate that the damage to the bathroom door was caused by the Tenant. In light of the above, I dismiss the Landlords' claim without leave to reapply.

The Landlords are claiming \$155.68 to replace the bathroom faucet and \$155.68 to replace the kitchen faucet. The Tenant stated that the faucets had no issues with them at any point during the tenancy. In this case, I find that the Landlords provided insufficient evidence to demonstrate that the faucet were broken and required replacement. As such, I dismiss these claims without leave to reapply.

The Landlords are claiming \$600.00 for labour associated with removing the carpet and flooring throughout the rental unit, as well as for the removal of the kitchen cabinets. As I found that the Landlords provided insufficient evidence to demonstrate that the flooring, carpets and cabinets required replacement, I find that the Landlords are not

entitled to compensation associated with their removal. I dismiss this claim without leave to reapply.

As the Landlords were partially successful with their Application, I find that they are entitled to the recovery of the **\$100.00** filing fee. I also find it appropriate in the circumstances to order that the Landlords retain \$352.00 from the \$500.00 security deposit held in satisfaction of the claim ($\$500.00 - \$352.00 = \$148.00$).

Pursuant to section 67 of the *Act*, I find the Tenant is entitled to a monetary order in the amount of \$148.00, which represents the remaining balance of their security deposit less the previously mentioned deductions.

Conclusion

The Landlords have established an entitlement to monetary compensation in the amount of \$352.00.00 which has been deducted from the security deposit. The Tenant is granted a monetary order in the amount of \$148.00 which represents the remaining balance of the Tenant's security deposit. The order should be served to the Landlords as soon as possible and 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 12, 2023

Residential Tenancy Branch