



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDLS, MNSDS-DR, FFT, FFL

Introduction:

This hearing was convened in response to cross applications.

The landlord filed an Application for Dispute Resolution, in which the landlord applied for compensation for damage to the unit, to retain all or part of the security deposit, and to recover the fee paid to file an Application for Dispute Resolution.

The tenant filed an Application for Dispute Resolution, in which the tenant applied for the return of the security deposit, and to recover the fee for filing an Application for Dispute Resolution.

The landlord stated that in September of 2023, the landlord's Dispute Resolution Package was sent to the tenant, via registered mail. The tenant acknowledged receipt of these documents.

The tenant stated that on November 16, 2023, the tenant's Dispute Resolution Package and evidence submitted to the Residential Tenancy Branch on November 10, 2023 was sent to the landlord, via registered mail. The landlord acknowledged receipt of these documents and the evidence was accepted as evidence for these proceedings.

On January 15, 2024, the landlord submitted evidence to the Residential Tenancy Branch. The landlord stated that this evidence was sent to the tenant, via registered mail, on January 11, 2024. The tenant acknowledged receipt of this evidence and it was accepted as evidence for these proceedings.

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 speak the truth, the whole truth, and nothing but the truth during these proceedings.

The participants were advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. Each participant affirmed they would not record any portion of these proceedings.

Issue(s) to be Decided:

Is the landlord entitled to compensation for damage to the rental unit?
Should the security deposit be returned to the tenant or retained by the landlord?

Background and Evidence:

The landlord and the tenant agree that:

- The tenancy began on October 15, 2020;
- a security deposit of \$550.00 was paid on September 27, 2020;
- the tenancy ended on August 30, 2023;
- a final condition inspection report was completed on August 31, 2023;
- the tenant's forwarding address was written on the final condition inspection report;
- the tenant did not authorize the landlord to retain any portion of the security deposit; and
- the landlord did not return any portion of the security deposit.

Residential Tenancy Branch Records show that the landlord's Application for Dispute Resolution was filed on September 09, 2023, which is less than 15 days after the tenancy ended.

The landlord stated that a condition inspection report was completed on September 27, 2020. The tenant does not recall if one was completed at the start of the tenancy.

The landlord is seeking compensation of \$550.00 for damage to the carpet.

The landlord and the tenant agree that the carpet was burned in three places with a clothes iron.

The landlord submitted a quote that declares it will cost \$1,122.6 to replace the carpet. The landlord submitted a second quote that declares it will cost \$1,458.24 to replace the carpet. The landlord stated that the carpet has not been replaced.

The landlord stated that the carpet was installed in 2010 or 2011, which the tenant does not dispute.

The tenant submits that he should not have to pay for damaging the carpet because the carpet has exceeded its life expectancy.

The landlord stated that the carpet was high grade carpet which has a longer life expectancy than most carpets. She submits that the photographs show the carpet was still in good condition and had more years of useful life.

Analysis:

Section 38(1) of the *Act* stipulates that within 15 days after the later of the date the tenancy ends and the date the landlord receives the tenant's forwarding address in writing, the landlord must either repay the security deposit and/or pet damage deposit or file an Application for Dispute Resolution claiming against the deposits.

On the basis of the evidence before me, I find that the landlord complied with section 38(1) of the *Act*, when the landlord filed an Application for Dispute Resolution claiming against the security deposit less than 15 days after the tenancy ended.

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 leave repair the carpet that was damaged with a clothes iron during the tenancy.

Claims for compensation related to damage to the rental unit are meant to compensate the injured party for their actual loss. In the case of fixtures in a rental unit, a claim for damage and loss is based on the depreciated value of the fixture and not based on the

replacement cost. This is to reflect the useful life of fixtures, such as carpets and countertops, which are depreciating all the time through normal wear and tear.

The Residential Tenancy Policy Guidelines show that the life expectancy of carpet is ten years. The evidence shows that the carpet was 12 or 13 years old at the end of the tenancy. I therefore find that the carpet exceeded the life expectancy for carpet listed in the Policy Guidelines.

The life expectancy of an item listed in the Policy Guidelines is estimate of the lifetime of an item used under normal circumstances. It is reasonably to conclude that carpet could last longer than the expected lifetime if the carpet is of better quality than average or if the carpet has been well cared for. On the basis of the photogrpahs of the carpet submitted by the landlord, I accept that landlord's submission that the carpet had not exceeded its life expectancy.

Although this estimate is highly subjective, I find it reasonable to conclude that the carpet could reasonably be expected to last an additional 2 years. I therefore find that the landlord is entitled to compensation for 2/10 of the cost of replacing the carpet.

On the basis of the least expensive estimate for replacing the carpet (\$1,122.66), I find that the landlord is entitled to recover 20% of that cost, which is \$224.53.

I find that the Application for Dispute Resolution filed by each party has merit. I therefore find that neither party must pay for the cost of filing the other party's filing fee.

Conclusion:

The landlord has established a monetary claim of \$224.53, for replacing the carpet. I therefore find that the landlord has the right, pursuant to section 72 of the Act, to retain this amount from the tenant's security deposit.

As the landlord has failed to establish a right to keep the entire security deposit of \$550.00, I find that the landlord must return the remaining \$325.47 plus interest of \$12.21. I therefore grant the tenant a Monetary Order for \$337.68.

In the event that the landlord does not voluntarily comply with this Order, it may be served on the landlord, 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 *Residential Tenancy Act*.

Dated: February 04, 2024

Residential Tenancy Branch