



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: MND MNDC MNSD FF

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for a monetary Order for damage to the rental unit, a monetary Order for money owed or compensation for damage or loss, to retain all or part of the security deposit, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

The Agent for the Landlord #2 stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Tenant via registered mail at the address noted on the Application, on November 27, 2008. The Landlord submitted documentation from Canada Post that establishes the Tenant signed for the mail on December 03, 2008. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to a monetary order for damage to the rental unit; for a monetary order for liquidated damages; a monetary

order for loss of revenue; to retain all or part of the security deposit; and to recover the filing fee for the cost of this Application for Dispute Resolution.

Background and Evidence

The Landlord submitted two pages of a tenancy agreement that establishes that this tenancy began on March 01, 2007; that it was a fixed term tenancy that was scheduled to end on February 28, 2008; that the monthly rent was \$2100.00; and that the Tenant paid a security deposit of \$1,050.00 on February 22, 2007.

The Agent for the Landlord #2 stated that on October 30, 2008, the Tenant provided written notice of her intent to vacate the rental unit at the end of October. The Agent stated that the Tenant did vacate the rental unit on October 30, 2008, without providing a forwarding address.

A condition inspection report was completed at the beginning of this tenancy, a copy of which was submitted in evidence. A condition inspection report was completed at the end of the tenancy by the Landlord, however it was not signed by the Tenant. The Landlord submitted two Notices of Final Inspection, which provide the Tenant with two opportunities to participate in a condition inspection.

The Landlord is seeking compensation, in the amount of \$2,100.00 for loss of revenue for the month of November of 2008. The Agent for the Landlord #2 stated that they were unable to rent the rental unit for November due to the late notice provided by the Tenant and because the rental unit required extensive repairs before it could be rented again.

The Landlord is seeking compensation, in the amount of \$1,050.00, for liquidated damages. Article 5 of the tenancy agreement provides for this payment in the event that the Tenant ends the tenancy prior to the end of the fixed term tenancy agreement.

The Landlord is seeking compensation, in the amount of \$25.00, for a late payment fee from October. The Agent for the Landlord #2 stated that the Tenant was late paying rent for October of 2008. The Agent stated that article 10 of the tenancy agreement provides for a \$25.00 late payment fee whenever the rent is paid after the date it is due, although this portion of the agreement was not submitted in evidence.

The Landlord is seeking compensation, in the amount of \$25.00, for a late payment fee from November. The Agent for the Landlord #2 stated that the Tenant did not pay rent for November.

The Landlord is seeking compensation, in the amount of \$128.13 for re-keying the locks to the rental unit, which was necessary because the Tenant did not return the keys to the rental unit. A receipt to establish this expense was incurred was submitted in evidence.

The Landlord is seeking compensation, in the amount of \$1,325.00 for painting the interior of the rental unit. The Landlord submitted photographs of the walls and the condition inspection report that establishes that the walls needed to be painted at the end of the tenancy. The Agent for the Landlord #2 stated that the walls were last painted in 2005. A receipt to establish this expense was incurred was submitted in evidence.

The Landlord is seeking compensation, in the amount of \$208.82 for cleaning and repairing blinds in the rental unit. The Landlord submitted a condition inspection report that establishes that the blinds needed cleaning at the end of the tenancy. The Agent

for the Landlord #2 stated that the blinds also needed repairing as some of the pieces had been damaged by pets. A receipt to establish this expense was incurred was submitted in evidence.

The Landlord is seeking compensation, in the amount of \$2,509.96, for cleaning the carpets and replacing the underlay. The Landlord submitted a condition inspection report that establishes that the carpets required cleaning at the end of the tenancy. The Landlord also submitted photographs to show that the carpets were badly stained on both sides. The Agent for the Landlord #2 stated that both sides of the carpets needed cleaning; that the underlay needed to be replaced; and that the subfloor needed to be sealed. A receipt to establish this expense was incurred was submitted in evidence.

The Landlord is seeking compensation, in the amount of \$116.60, for removing garbage from the rental unit. The Landlord submitted a condition inspection report and photographs to establish that a large amount of garbage was left in the rental unit. A receipt to establish this expense was incurred was submitted in evidence.

The Landlord is seeking compensation, in the amount of \$115.54, for repairing a basin tap and clearing a clogged drain in the bathroom. The Landlord submitted a condition inspection report that indicates the drains were clogged in the bathroom. The Agent for the Landlord #2 stated that the drains were clogged with hair and that one of the taps was broken. A receipt to establish this expense was incurred was submitted in evidence.

The Landlord is seeking compensation, in the amount of \$411.80, for repainting the floor in the garage. The Landlord submitted a condition inspection report and photographs that show the garage floor was badly stained. The Agent for the Landlord #2 stated that the floors were stained with dog excrement and eventually had to be

painted after extensive efforts were made to clean the floor. Receipts to establish these labour and material expenses were incurred were submitted in evidence.

The Landlord is seeking compensation, in the amount of \$166.15, for repairing the garage door and replacing two transmitters. The Agent for the Landlord #2 stated that the Tenant did not return two transmitters for the garage door. He stated that the garage door was in need of repair as an unknown object had been jammed into the garage door track. A receipt to establish these expenses were incurred was submitted in evidence.

The Landlord is seeking compensation, in the amount of \$360.00 in labour and \$223.32 in supplies, for cleaning the rental unit. The Landlord submitted a condition inspection report and photographs that show the rental unit required extensive cleaning. The Landlord did not submit a receipt for labour expenses incurred for cleaning, however the Agent for the Landlord #2 stated that they were billed for 24 hours of labour, at a rate of \$15.00 per hour. The Landlord did submit a petty cash supply list, in the amount of \$223.33, of which only \$39.70 is for items related to cleaning. The remaining items on the list are for light bulbs and other miscellaneous items.

Analysis

The evidence shows that the Tenant failed to comply with section 45 of the Act, when she failed to provide the Landlord with one month's notice of her intent to vacate the rental unit. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the Act, which in these circumstances is \$2,100.00, as the late notice prevented the Landlord from finding new tenants.

The evidence shows that the Tenant ended this fixed-term tenancy prior to the date it was scheduled to end, and that she agreed to pay \$1,050.00 in liquidated damages if she ended the fixed term tenancy early. On this basis, I find that the Landlord is entitled to liquidated damages in the amount of \$1,050.00 for administration and advertising costs related to finding a new tenant.

In the absence of evidence to the contrary, I find that the tenancy agreement provides for a late payment fee of \$25.00 whenever the rent is not paid on time and that the rent was not paid on time for October of 2008. On this basis, I find that the Landlord is entitled to a fee of \$25.00 for paying rent late in October.

I decline to award a late payment fee for November of 2008. As the Tenant did not occupy the rental unit in November, she was not required to pay her rent on November 01, 2008. I have already determined that she must compensate the Landlord for loss of revenue for the month of November, which is different than a rent payment that is due on the first of the month. As she was not required to pay her rent on November 01, 2008, a late payment fee is not appropriate.

In the absence of evidence to the contrary, I find that the Tenant failed to comply with section 37(2)(b) of the *Act* when she failed to return the keys to the rental unit. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the *Act*, which in these circumstances is \$128.13 for re-keying the locks.

The evidence shows that the Tenant failed to comply with section 37(2)(a) of the *Act* when she failed to leave the walls undamaged, except for reasonable wear and tear, at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the *Act*. The Residential Tenancy Guidelines estimates that the life expectancy of interior paint is four years.

The evidence shows that the paint in the rental unit was approximately three years old. Therefore, I find that the paint in the rental unit had depreciated by seventy-five percent and that the Landlord is entitled to twenty-five percent of the cost of repainting the rental unit, which in these circumstances is \$331.25.

The evidence shows that the Tenant failed to comply with section 37(2)(a) of the *Act* when she failed to leave the blinds clean and undamaged, except for reasonable wear and tear, at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the *Act*, which in these circumstances was \$208.82.

The evidence shows that the Tenant failed to comply with section 37(2)(a) of the *Act* when she failed to leave the carpets clean and undamaged, except for reasonable wear and tear, at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the *Act*, which in these circumstances was \$2,509.96.

The evidence shows that the Tenant failed to comply with section 37(2)(a) of the *Act* when she failed to leave the rental unit reasonably clean at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the *Act*, which in these circumstances was \$116.60 to dispose of garbage left in the rental unit.

The evidence shows that the Tenant failed to comply with section 37(2)(a) of the *Act* when she failed to leave the rental unit undamaged, except for reasonable wear and tear, at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the *Act*, which in these circumstances was \$115.54 to unclog drains and repair one broken tap.

The evidence shows that the Tenant failed to comply with section 37(2)(a) of the *Act* when she failed to leave the garage floor undamaged, except for reasonable wear and tear, at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the *Act*. The Residential Tenancy Guidelines estimates that the life expectancy of interior paint is four years. The evidence shows that the paint on the garage floor was approximately three years old. Therefore, I find that the paint in the garage has depreciated by seventy-five percent and that the Landlord is entitled to twenty-five percent of the cost of repainting the floor, which in these circumstances is \$102.95.

In the absence of evidence to the contrary, I find that the Tenant failed to comply with section 37(2) of the *Act* when she failed to return the transmitters to the garage door, and she failed to repair damage done to the garage door during the tenancy. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the *Act*, which in these circumstances is \$166.15 for replacing two transmitters and repairing the garage door.

The evidence shows that the Tenant failed to comply with section 37(2)(a) of the *Act* when she failed to leave the rental unit reasonably clean at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the *Act*. In the absence of evidence to the contrary, I find that the Landlord paid \$360.00 in labour and \$39.70 in materials to clean the rental unit, and I find that the Landlord is entitled to compensation in these amounts.

I decline to award the Landlord compensation for light bulbs and other miscellaneous items listed on the list of petty cash supplies, as the Landlord submitted insufficient evidence to establish that they relate to damages that exceed reasonable wear and tear.

Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$7,354.10, which is comprised on \$2,100.00 as compensation for loss of revenue, \$1,050.00 in liquidated damages; \$25.00 in late fees; \$4,079.10 in damages to the rental unit; and \$100.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.

I find that the Landlord is entitled to retain the security deposit paid by the Tenant, plus interest in the amount of \$29.46, in partial satisfaction of this claim.

Based on these determinations I grant the Landlord a monetary Order for the amount \$6,274.64. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Dated: January 15, 2009