



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution wherein she sought monetary compensation from the Tenant.

Only the Landlord appeared at the hearing. As the Tenants were not in attendance service of the Landlord's Application Materials and Notice of Hearing was considered. She testified that she served the Tenants with Notice of the Hearing and the Landlord's Application for Dispute Resolution by registered mail on December 21, 2015. Provided in evidence were copies of the registered mail receipts confirming both Tenants were served individually with these documents. The Landlord stated that she was informed the Tenants refused service of the registered mail package.

Pursuant to section 90 of the *Residential Tenancy Act*, service by registered mail is deemed received five days later; refusal or neglect to accept registered mail does not negate service and accordingly I find the Tenants were served with Notice of the Hearing and I therefore proceeded in their absence.

Issues to be Decided

1. Is the Landlord entitled to monetary compensation from the Tenants?
2. Should the Landlord be authorized to retain the Tenants' security deposit?
3. Should the Landlord recover the filing fee paid to file her Application for Dispute Resolution?

Background and Evidence

The Landlord testified that this one year fixed term tenancy began February 1, 2014. Monthly rent was payable in the amount of \$995.00 and the Tenants paid a security deposit in the amount of \$497.50. She stated that the Tenants moved out prior to the expiration of the one year term.

Introduced in evidence was a copy of the Move-Out Condition Inspection Report indicating the condition of the rental unit when the tenancy ended. This Report confirmed that the rental unit was left dirty and that the living room hardwood floors were damaged. The Landlord stated that it looked as though heavy items were dropped on the floor leaving large gouges and scratches. She also stated that some of the gouges were so deep that she was advised that the floor boards will need to be replaced. The Landlord confirmed that the home was built in 1913. The hardwood floors were original, but were refinished 18 months prior to the tenancy beginning.

The Landlord confirmed that she provided the Tenants with two opportunities to conduct the move out inspection and that they failed to attend. She further testified that the inspection was witnessed by the Landlord's spouse, R.K., who she advised was also an owner of the property. Notably, he signed the move out condition inspection report confirming its condition.

Introduced in evidence was a copy of the Landlord's Monetary Orders Worksheet which confirmed the Landlord sought the sum of \$1,950.00 for the following:

Cleaning apartment	\$200.00
Hardwood floor repairs	\$1,500.00
Missing wall lamp shade	\$200.00
Filing fee	\$50.00
TOTAL CLAIMED	\$1,950.00

The Landlord confirmed that she did not provide receipts in evidence as she has yet to perform the above repairs as she was awaiting the outcome of this hearing to ensure she could use the security deposit towards these expenses.

The Tenants failed to attend the hearing to dispute the amounts claimed by the Landlord.

Analysis

In a claim for damage or loss under section 67 of the *Act* or the tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the Landlord has the burden of proof to prove their claim.

Section 7(1) of the *Act* provides that if a Landlord or Tenant does not comply with the *Act*, regulation or tenancy agreement, the non-complying party must compensate the other for damage or loss that results.

Section 67 of the *Act* provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

The condition in which a Tenant should leave the rental unit at the end of the tenancy is defined in Part 2 of the *Act* as follows:

Leaving the rental unit at the end of a tenancy

37 (2) When a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

I am satisfied, based on the undisputed evidence before me, that the Tenants did not clean the rental unit as required, damaged the hardwood floors and that at the end of the tenancy the wall lamp shade was missing. I accept the Landlord's evidence that the flooring had been refinished shortly before the tenancy began such that the Landlord is entitled to the amount required to return to the hardwood flooring to the condition it had been before the tenancy.

In total, I find the Landlord is entitled to the \$1,950.00 she claims. I authorize her to retain the Tenants' security deposit in the amount of \$497.50 and I grant her a monetary Order for the balance due in the amount of **\$1,452.50**. This Order must be served on

the Tenants by the Landlord and may be filed and enforced in the B.C. Provincial Court (Small Claims Division) as an Order of that Court.

Conclusion

The Landlord has established a monetary claim in the amount of \$1,950.00 for cleaning and damage to the rental unit as well as recovery of the filing fee. She is authorized, pursuant to section 38 of the *Residential Tenancy Act* to retain the Tenant's security deposit in the amount of \$497.50 and is granted a Monetary Order for the balance due in the amount of **\$1,452.50**.

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: July 19, 2016

Residential Tenancy Branch