



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF MND MNSD

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the *Act*), I was designated to hear this matter. This hearing dealt with the landlords' application for:

- a Monetary Order pursuant to section 67 of the *Act* for damage to the rental unit;
- an application to keep all or part of the security deposit pursuant to section 38 of the *Act*; and
- recovery of the filing fee from the tenants pursuant to section 72 of the *Act*.

The male tenant, N.G. (the tenant) and the female landlord, P.M. (the landlord) attended the hearing. Both parties were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that the tenants were individually sent copies of the Landlords' Application for Dispute Resolution hearing package ("dispute resolution hearing package") along with evidentiary packages by way of Registered Mail on February 10, 2017. The tenant confirmed receipt of the packages. In accordance with sections 88 and 89 of the *Act*, I find that the tenants were deemed served with the landlords' dispute resolution hearing and evidentiary packages on January 31, 2017.

Issue(s) to be Decided

Are the landlords entitled to a Monetary Order for damage to the rental unit?

Can the landlords retain all or a portion of the security deposit?

Can the landlords recover the filing fee for this application?

Background and Evidence

Testimony was provided by both parties that this tenancy began on October 1, 2014 and ended on June 30, 2016. Rent was \$1,525.00 per month and a security deposit of \$762.50 continues to be held by the landlords.

The landlords are seeking a Monetary Order of \$1,946.70 in satisfaction of all bills paid as a result of damage and repairs to the rental unit. Specifically the landlords are looking to recover:

Item	Amount
Cleaning services (8 hrs @ \$15.00/hr)	\$120.00
Handyman service, repairs and parts	568.32
Rental of cleaning machine and cleaning supplies	71.08
Additional cleaning supplies and carpet cleaning soap	38.20
Cost of replacement door and labour	665.35
Carpet Repair quote	183.75
Quote for kitchen exhaust fan	300.00
Total =	\$1,946.70

The landlord testified that all repairs except the carpet repairs and kitchen exhaust fan have been performed. She stated that she does not currently have enough money to pay for these two items, hence why she has listed quotes for repairs of the carpet and kitchen exhaust fan.

The tenant explained that he largely agreed with the necessity of the repairs; however, he specifically questioned the cost associated with some of the repairs. He said that he felt the landlord was trying to replace things that could simply have been repaired and disputed the rate at which the handyman invoiced the landlords. Furthermore the tenant testified that had he been asked, he could have performed many of the repairs himself.

During the course of the hearing the landlord gave sworn testimony that this was a newly renovated rental unit that had all light fixtures, door knobs, sinks and towel racks replaced in the two weeks prior to occupancy by the tenants. In addition to these repairs before the start of the tenancy, the apartment was painted and the carpet was replaced. Photographic evidence was provided to the hearing of the damage allegedly caused by the tenant as part of the landlords' evidentiary package.

As mentioned above, the tenant did not dispute the majority of the landlords' claims, but hoped to highlight that the unit was occupied by a small child and a majority of these repairs that were required could be attributed to everyday wear and tear within the unit. He also questioned the rate of pay displayed on the invoices produced by the handyman and stated in his testimony that he did not damage the door for which the landlords are seeking compensation.

As part of their evidentiary package, the landlords produced a signed copy of the Condition Inspection Report completed on June 30, 2016. This document showed that the tenant agreed that the landlords could retain the full amount of their security deposit. During the course of the hearing the tenant explained that he didn't understand what this clause entailed when he signed this document and he was under the impression that the money would be held by the landlord until a hearing settled the matter.

Analysis – Monetary Order

Section 7(1) of the *Act* establishes that tenants who do not comply with the *Act*, the regulations or the tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply. Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party.

The landlords produced very detailed evidence demonstrating the loss they had suffered as a result of this tenancy. During the course of the hearing the tenant did not dispute the work that was performed. He challenged the price associated with the work that was performed and explained that some of the damage that had occurred, specifically to the walls and carpet, should be attributed to normal wear and tear of a rental unit.

As the landlords have suffered loss, the tenants must unfortunately take steps to rectify this loss. In this case, the cost associated with the repair work, while perhaps high, is a loss that the landlords have incurred. The landlord stated that the necessary repairs were not identified until the tenancy had ended and she therefore did not think to ask the tenant to make any repairs himself. Furthermore, she explained that the handyman she contracted was in fact very reasonably priced, working for \$25.00 per hour.

In addition, the landlords have taken steps to mitigate the tenants' loss by seeking to get the carpet repairs rather than replaced.

Residential Tenancy Policy Guideline #40 is in place to deal with situations concerning questions of wear and tear. These guidelines provide a general guideline for determining the useful life of building elements. Of particular importance are the guidelines around doors and stoves. *Policy Guideline #40* notes that doors 20 years, and stoves 15 years.

Based on the dates provided to the hearing and *Policy Guideline #40* it is apparent that the damage caused to the door and hood fan by the tenants went beyond the normal wear and tear associated with the use of such items during a tenancy.

The landlord testified that the hood fan was replaced in 2009 and the door was present in the rental unit when it was purchased "11 years ago."

Using *Policy Guideline #40* to determine exactly how much money the landlord should be compensated for her loss, I will examine the useful life of the objects in relation to the time at which they were replaced.

Door -

As per Residential Tenancy Policy Guideline 40, the useful life of a door is 20 years. If the door was new when the landlords purchase the property 11 years ago, it had 9 years or 55% of its life expectancy left before the landlord would have had to replace it anyway. Therefore, I find the landlord is entitled to a monetary award of 55% of the cost of this \$665.35 door, \$364.94.

Kitchen Hood -

As per Residential Tenancy Policy Guideline 40, the useful life of a stove is 15 years. The landlord testified that the kitchen hood, which is associated with the stove, was replaced in 2009 when the previous tenant suffered a fire, it therefore had 8 years or 53% of its life expectancy left before the landlord would have had to replace it anyway. Therefore, I find the landlord is entitled to a monetary award of 53% of the replacement cost of this \$300.00 item, which is \$159.00.

I will therefore grant the landlords a majority of the Monetary Order sought by the landlords. As they were successful in their application for dispute resolution the landlords may retain the security

deposit under section 72 of the *Act* as relief against their Monetary Award.

Again due to their success in their application, and pursuant to section 72 of the *Act* the landlords may recover the \$100.00 filing fee from the tenants.

Conclusion

I am making a Monetary Order of \$812.04 in favour of the landlords as follows:

Item	Amount
Cleaning services (8 hrs @ \$15.00/hr)	\$120.00
Handyman services, repairs and parts	568.32
Rental of Cleaning machine and cleaning supplies	71.08
Additional cleaning supplies and carpet cleaning soap	38.20
Cost of replacement door and labour	364.94
Carpet Repair	153.00
Replacement of kitchen exhaust fan	159.00
Recovery of Filing Fee	100.00
Less Security Deposit	(-762.50)
Total =	\$812.04

The landlords are provided with formal Orders in the above terms. Should the tenants fail to comply with these Orders, these Orders may be filed and enforced as Orders of the Provincial Court of British Columbia.

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: April 10, 2017

Residential Tenancy Branch