



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KEYCAM HOLDINGS LTD. & DUNCAN KEIST
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes LANDLORD: MND, MNDC, MNSD, FF
TENANT: MNSD, LRE

Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlords and the Tenant.

The Landlords filed seeking a monetary order for compensation for damage to the unit site or property, for damage or loss under the Act, the regulations or the tenancy agreement, to retain the Tenant's security deposit and to recover the filing fee for this proceeding.

The Tenant filed seeking the return of the Tenant's security deposit and to restrict the right of the landlord to enter the rental unit.

Service of the hearing documents by the Landlords to the Tenant were done by registered mail on August 2, 2017, in accordance with section 89 of the Act.

Service of the hearing documents by the Tenant to the Landlords were done by registered mail on July 26, 2017 in accordance with section 89 of the Act.

The Tenant and the Landlord confirmed that they had received the other party's hearing packages.

Issues to be Decided

Landlord:

1. Are there damages to the unit, site or property and if so how much?
2. Are the Landlords entitled to compensation for the damages and if so how much?
3. Are there damages or losses to the Landlords and if so how much?
4. Are the Landlords entitled to compensation for damage or loss and if so how much?

5. Are the Landlords entitled to retain the Tenant's security deposit?

Tenant:

1. Is the Tenant entitled to the return of the security deposit?

Background and Evidence

This tenancy started on June 1, 2012 as a month to month tenancy. Rent was \$680.00 per month payable on the 1st day of each month. The Tenant paid a security deposit of \$340.00 at the start of the tenancy. No pet deposit was required. A move in condition inspection report was completed on June 1, 2012 and a move out condition inspection report was completed on July 16, 2016 but the Tenant refused to sign it as he disagreed with the contents of the report. The tenancy ended on July 16, 2017 as a result of a One Month Notice to End Tenancy for Cause.

The Tenant said he has made his application to recover his security deposit as the Landlord and he disagreed on the condition of the rental unit at the end of the tenancy. This resulted in the Landlord retaining the Tenant's security deposit. The Tenant continued to say that he did not sign the move out condition inspection report because he had cleaned the unit and repaired any damage. The Tenant's said he got his stepmother and her friend to spend 2 days cleaning the rental unit on July 14, and July 15, 2017. The Tenant said he submitted photographs to support his position that the unit was in good condition and clean. The Tenant's stepmother said she and her friend cleaned the unit and shampooed the carpets in the unit on July 14 and 15, 2017. The Tenant's stepmother said that the Tenant lived in the unit for 5 years and the Landlord had not painted or repaired things that were broken or not working. The Tenant's stepmother continued to say the rental unit was clean and the photographs the Tenant submitted support this. As well the Tenant's stepmother said the Tenant lived in the unit for five years so there was some wear and tear as in a normal tenancy.

The Landlord said there was some cleaning done in the rental unit but there were some areas that still required cleaning and the drain in the bathroom drain was plugged. The Landlord continued to say the invoice from Roto Rooter says the plug was caused by cat litter in the tub. The Landlord said he is requesting the following compensation:

1. Molly Maid general cleaning	\$ 160.00
2. Sierra carpets carpet cleaning	\$ 157.00
3. Repairs to drywall	\$ 126.00
4. Replace bathroom curtain	\$ 44.79
5. Clear drain in bathroom	\$ 507.73
6. Deodorize the unit for cat smell	\$ 23.47
7. Rental of wet vacuum	\$ 16.80
8. Filing fee	<u>\$ 100.00</u>
Total	<u>\$1,136.29</u>

The Landlord continued to say that he submitted paid receipts, condition inspection reports and photographs to support each of his claims.

The Tenant said he had the drywall repaired before he left the unit so the hole in the wall behind the door happened after he vacated the rental unit. The Tenant said he is not responsible for the drywall repairs.

Further the Tenant said that the cat litter box was not in the shower so he does not believe the drain was plugged due to cat litter. The Tenant's stepmother said that the writing on the Roto Rooter invoice is in two different hand writing and the part about the cat litter plugging the drain appears to have been added to the invoice.

The Landlord gave affirmed testimony that he did not alter the invoice.

The Tenant continued to say he had a plumbing back up issue with the washing machine early in the tenancy and other tenants borrowed his toilet plunger because they had back up issues as well.

The Landlord said he repaired the washing machine issue by putting a sink into the laundry. The Landlord said the drain pipe on the washing machine could not drain fast enough to keep up with the washing machine when it was on the drain cycle. With the sink installed the washing machine could drain into the sink and then drain slowly out of the sink. The Landlord said he has not had back up problems with the plumbing in the building.

The Tenant continued to say that the tenancy agreement allows for his two cats and the Landlord was aware and allowed him to babysit 2 additional cats for his parents as they had a house fire and did not have a place to keep their cats. The Tenant said he babysat the 2 additional cats for 3 months.

The Landlord said he was aware of the additional cats and did allow them but he understood it was for a few weeks not 3 months.

There was much discussion about the Landlord allegedly entering the rental unit without proper notice. The Tenant said he applied to restrict the Landlord's right of entry, but as the tenancy has ended the Tenant said he will withdraw that part of the application as it no longer matters.

The Landlord said he did not enter the Tenant's unit without proper notice except to do repair work to the plugged drain.

The Tenant said the Landlord had entered his unit and put mail on the table and there were other times the Landlord entered his unit without proper notice.

The Landlord said in closing that the Tenant did not clean the unit adequately, the Tenant damaged the drywall and he plugged the drain with cat litter. These items had to be corrected and the Landlord is requesting compensation for the costs that he incurred.

The Tenant said in closing that his stepmother cleaned the unit and he submitted photographs to show it was adequately cleaned and the carpets were shampooed. The drywall was repaired and he does not believe the drain was plugged by the cat litter.

The Tenant's stepmother said in closing she believes the Landlord altered the Roto Rooter invoice to say the cat litter plugged the drain.

Analysis

Section 37 of the Act says:

Leaving the rental unit at the end of a tenancy

37 (1) Unless a landlord and tenant otherwise agree, the tenant must vacate the rental unit by 1 p.m. on the day the tenancy ends.

(2) When a tenant vacates a rental unit, the tenant **must**

(a) leave the rental unit **reasonably** clean, and undamaged except for **reasonable** wear and tear, and

(b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

The Landlord's application is partially based on the Landlord's assertion that the Tenant did not clean the unit adequately and the Landlord incurred costs to clean the unit so that it was ready for a new rental. The Tenant said he had family come in and clean the unit for two days which the Tenant believes left the unit in adequate condition. Both parties submitted photographs to support their position and a move out condition inspection report was submitted but not agreed to by the parties.

Section 37 (2) a states the Tenant must leave the rental unit **reasonably** clean, undamaged except for **reasonable** wear and tear. The word reasonable does not mean rent ready for the next tenant. If a tenant removes all their belongings, wipes down the unit and cleans the carpets they have met the requirements of **reasonable**. If the tenancy agreement states the carpets have to be professionally cleaned then a carpet cleaning company must be hired, but if the tenancy agreement does not state that then a tenant can clean or shampoo the carpets by the means available to them. After reviewing the testimony and submitted evidence, I find the Tenant did leave the

unit **reasonably** clean and the Tenant met his obligation under the Act. Consequently I dismiss the Landlord's claims for general clean in the amount of \$160.00, carpet cleaning in the amount of \$157.00 and the rental equipment in the amount of \$16.80.

With regard to the drywall repair the Tenant said it was repaired when he left the unit. I reviewed the move out condition inspection report and it does not indicate any damage to the hall drywall. Therefore I accept the drywall was repair by the Tenant when he vacated the unit. Consequently, I dismiss the Landlord's claim for drywall damage in the amount of \$126.00.

Further Section 37 (2) (a) of the Act says the tenant must leave the unit undamaged except for normal wear and tear. As the Tenant was in the rental unit for 5 years, I find the replacement of the shower curtain is normal wear and tear. I dismiss the Landlord's claim for \$44.79 to replace the shower curtain.

With regard to the Landlord's claim of \$23.47 for the fibre clean to remove the cat smell in the unit. The Landlord allowed two cats as part of the tenancy and the Landlord was aware and allowed an additional two cats to be babysat in the rental unit. Consequently the Landlord accepted pets without a pet deposit; therefore I find the Landlord has no grounds to claim for pet damage in the rental unit. I dismiss the Landlord's claim for \$23.47 for the removal of the cat smell.

The Landlord's claim for the Roto Rooter drain work of \$507.73 is disputed by the Tenant on the grounds that the cat litter box was not in the shower, there were previous drain issues and that the invoice from Roto Rooter was altered. The Landlord gave affirmed testimony that he did not alter the invoice. I have reviewed the invoice and I conclude that there are two different handwritings on the invoice. The second hand writing only pertains to the cat litter and the removal of clay from the drain. Further I found that the move out condition inspection report only noted a cat litter box odor in the utility room and there was no mention of cat odor or cat debris in the bathroom. Consequently on the balance of probabilities I accept the Tenant has established grounds to dispute the Landlord's claim that the drain was plugged due to cat litter. Therefore I dismiss the Landlord's claim of \$507.73 for drain work.

I dismiss the Landlord's application based on the above reasons and order the Landlord to bear the cost of the filing fee of \$100.00 that he has already paid. .

With regard to the Tenant's application for the return of his security deposit of \$340.00; I order the Landlord to return the full security deposit of \$340.00 to the Tenant immediately. Further I have issued a monetary order to the Tenant in the amount of \$340.00 in support of my decision.

Conclusion

A Monetary Order in the amount of \$340.00 has been issued to the Tenant. A copy of the Order must be served on the Landlords: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

The Landlord's application is dismissed without leave to reapply.

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: October 04, 2017

Residential Tenancy Branch