



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## Decision

### **Dispute Codes:**

MNDC, MND, FF

### **Introduction**

I have been delegated the authority under Section 9.1 of the *Residential Tenancy Act* (the “Act”) to hear this matter and decide the issues.

I reviewed the evidence on the case file prior to the Hearing. The Landlord gave affirmed evidence and this matter proceeded on its merits.

### **Issue(s) to be Decided**

This is the Landlords’ application for a Monetary Order for damages to the rental unit and to recover the filing fee from the Tenant.

- (1) Are the Landlords entitled to a monetary order?
- (2) Are the Landlords entitled to recovery of the filing fee from the Tenant?

### **Background and Evidence**

#### Service

The Landlord testified that she mailed the Tenant the Notice of Hearing documents by registered mail to the Tenant’s new residential address on February 9, 2009. The

Landlord provided a Canada Post Tracking Number and testified that the Post Office returned the documents to the Landlord on February 27, 2009, unclaimed.

### Landlords' testimony and evidence

The Landlord gave the following evidence and submissions:

- The rental unit was 2 years old when the Tenant took possession of the unit. It is a single family dwelling of approximately 2500 square feet, comprised of 4 bedrooms, 3 bathrooms, wall to wall carpeting and hardwood floors throughout.
- The tenancy started on December 1, 2005 and ended on June 28, 2007. The Tenant paid a security deposit in the amount of \$725.00 on December 1, 2005.
- The Landlords sent the Tenant a letter, dated January 14, 2009, demanding payment within 15 days for damages to the rental unit in the amount of \$2,384.03, after applying the security deposit to the total claimed of \$3,109.03.
- The Tenant did not pay the Landlord for the damages the Landlords allege were the Tenant's responsibility. On February 6, 2009, the Landlord filed an Application for Dispute Resolution claiming \$2,384.03 in damages.
- The Landlords provided a copy of a portion of the Tenancy Agreement, signed by the Tenant, which states, in part: 2 bar chairs in the kitchen; a pull in the carpet in the living room in front of the window; shelving unit in the laundry room; 2 little stain marks on the carpet in the master bedroom; black shelving unit in garage; white cupboard shelf unit in the garage; 1 propane tank and 3 small propane bottles in the garage; carpets must be professionally cleaned before leaving the premises; please make sure to use proper ventilation when cooking.
- The Landlord testified that the Tenant did not clean the unit prior to moving out. The Landlord testified that the Tenant did not use the ventilation fans when cooking and left strong pungent cooking odours in the rental unit, together with grease on surfaces; a broken range back; two broken stove top elements; a broken mechanism on the toilet; a broken curtain rod; and stained and dirty carpets. The Landlord testified that the Tenant took the 2 bar stools and that two

door stops and 2 heat register covers were missing from the rental unit after the Tenant vacated the premises.

- The Landlords provided 33 photographs of the rental unit, taken between August 10, and August 30, 2007. The photographs depict dirty and damaged appliances, garbage and belongings allegedly left behind by the Tenant, gouges in walls. Also included is a picture of the carpet after it was shampooed, indicating some stains that could not be removed.
- The Landlords provided receipts for goods and services, as follows:

Merchant	Goods/Services	Amount claimed
Rona	Thermostat	\$24.84
Cloverdale Paint	Paint	\$26.03
" " "	"	\$24.47
" " "	"	\$24.47
Canadian Tire	Cleaning supplies	\$15.89
Medallion Healthy Homes	ozone treatments to remove cooking odours	\$395.00
Rona	Door stops (3)	\$11.46
Matus Appliances	2 stove elements	\$67.78
Rona	2 heat registers and 1 curtain rod	\$15.14
Superstore	light bulbs and oil for kitchen cupboards	\$7.11
Rona	plastic door protectors	\$3.78
Sears	carpet cleaning	\$243.78
Superstore	film development	\$4.47
Sears	new back for stove	\$213.59
Sears	2 bar stools	\$681.72
Canada Post	Express Post letter	\$10.59
BC Classified	Ads	\$16.32
BC Classified	Ads	\$35.89
SD	Cleaning, repairing and painting	\$1,350.00
Subtotal		\$3,109.03
Less security deposit		<\$725.00>
TOTAL CLAIM:		\$2,384.03
		=====

## **Analysis**

I accept the Landlord's testimony that she duly served the Tenant with the Notice of Hearing documents by registered mail on February 9, 2009. Section 90 of the Act deems that service in this manner is effective 5 days from the date of mailing the documents. The Tenant did not attend the conference, in spite of being duly served, and the Hearing proceeded in his absence.

The Landlord testified that the rental unit was two years old in December, 2005, when the Tenant moved in. When the Tenant moved out at the end of July, 2007, the rental unit was 3 ½ years old.

With no evidence or testimony to the contrary from the Tenant, I accept the Landlord's testimony and evidence that there were two bar stools in the kitchen when the Tenant took possession and that they were not there when the Tenant left. The Landlord bought replacement stools at the cost of \$681.72. Furniture has a useful life of 10 years. The stools were 3 ½ years old when the Tenant left and 1/3 of their useful life was spent. I therefore allow the Landlord's claim for replacement of the stools in the amount of \$454.48, which is 2/3 of the Landlords' cost to replace the stools with new ones.

I dismiss the Landlords' claim, as unproven, for: thermostat; door stops; and plastic door protectors.

I dismiss the Landlords' claim, as the cost of doing business, for: film development; ads; and express post letter.

I allow the remainder of the Landlords' monetary claim, as follows:

Merchant	Goods/Services	Amount claimed
Cloverdale Paint	Paint	\$26.03
" " "	"	\$24.47
" " "	"	\$24.47
Canadian Tire	Cleaning supplies	\$15.89
Medallion Healthy Homes	ozone treatments	\$395.00

	to remove cooking odours	
Matus Appliances	2 stove elements	\$67.78
Rona	2 heat registers and	
	1 curtain rod	\$15.14
Superstore	light bulbs and oil for	
	kitchen cupboards	\$7.11
Sears	carpet cleaning	\$243.78
Sears	new back for stove	\$213.59
Sears	2 bar stools	\$454.48
SD	Cleaning, repairing and	\$1,350.00
	painting	
TOTAL		<u>\$2,837.74</u>

The Landlords prematurely applied the security deposit to their claim, and applied for a total monetary order of \$2,384.03 on their Application. I can not allow more that the Landlord has claimed, and therefore the total monetary award to the Landlords is \$2,384.03.

Pursuant to Section 72(2)(b) of the Act, the Landlords are entitled to apply the security deposit, together with accrued interest, towards satisfaction of their monetary claim for unpaid rent.

The Landlords have been largely successful in their claim and are entitled to recover the filing fee for the cost of their application from the Tenant.

I therefore make a monetary order in favour of the Landlords, calculated as follows:

Damages	\$2,384.03
Recovery of filing fee	\$50.00
Less security deposit and interest of \$25.66	<u>&lt;\$750.66&gt;</u>
TOTAL	<u>\$1,683.37</u> =====

## **Conclusion**

I grant the Landlords a monetary order for \$1,683.37 against the Tenant. This order must be served on the Tenant and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an order of that Court.

April 28, 2009

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