



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### **Dispute Codes:**

MND; MNR; MNSD; MNDC; FF; O

### **Introduction**

This matter was reconvened as a result of the Landlord's Application for a Review. The reviewing Officer ordered that the matter be reconvened before me in order to consider previously excluded evidence. My Decision dated September 24, 2010 should be read in conjunction with this Decision.

The reviewing Officer did not require the Landlords to serve the Tenant with the Notice of Hearing documents. The Notices of Hearing were mailed to both parties by the Residential Tenancy Branch.

The Landlord gave affirmed testimony at the Hearing. The Tenant did not sign into the teleconference.

### **Preliminary Matters**

The Landlords provided additional evidence to the Residential Tenancy Branch on November 9, 2010, which is late and will not be considered in this Hearing.

### **Issues to be Decided**

- Is there anything contained in the evidence excluded from the September 20, 2010 Hearing, which changes the Orders made on September 24, 2010?

## **Background and Evidence**

The Landlord testified that the photographs that were excluded in the September 20<sup>th</sup> Hearing were taken at the move out inspection on April 13, 2010.

Based on the previously excluded photographs, the Landlord made the following submissions:

The Landlords seek a monetary award for the cost of shampooing carpets in the amount of \$70.00, replacing the dining room carpet in the amount of \$375.98 because it was beyond repair, and the cost of cleaning the rental unit in the amount of \$60.00 for general cleaning (4 hours @\$15.00 per hour). The Landlord testified that the previously excluded photographs show that all of the carpets were in need of cleaning at the end of the tenancy, and that the dining room carpet was damaged.

The Landlords seek a monetary award in the amount of \$14.99 for replacing a missing shower curtain and \$4.88 for replacing a missing shower mat.

The Landlord requested a monetary award for the cost of rekeying the locks to the rental unit, in the amount of \$92.93. The Landlord stated that the Tenant moved out of the rental unit on April 12, 2010, without returning her key and that she changed the lock to protect the rental unit from further damages. The Landlord stated that the Tenant's mother lived in the house next door to the rental unit and was hostile to the Landlord, who was also the Tenant's mother's landlord. The Landlord submitted that the photographs show the Tenant's mother and other family and friends behaving in a hostile manner towards the Landlord at the end of the tenancy.

The Landlords seek a monetary award in the amount of \$22.37 for the cost of replacing a curtain. The Landlord stated that the Tenant removed the hem and re-sewed the curtain in order to make it longer, to fit the window.

The Landlords seek compensation in the amount of \$39.97 for the cost of exterior paint to repair damages to the outside windows.

The Landlord requested a monetary award for the cost of dump fees for disposing of garbage left at the rental unit, in the total amount of \$42.20.

The Landlords seek a monetary award in the amount of \$50.00 for damage to some custom made trellises and \$5.00 for two damaged fence post caps. The Landlord testified that the photographs show the damages caused by the Tenant.

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The Landlords seek a monetary award in the amount of \$31.94 for replacing 16 kitchen tiles. The Landlord testified that the Tenant's washer and dryer damaged the tile floor, which is shown in the photographic evidence.

The Landlord asked to recover the cost of filing the Application for Review in the amount of \$25.00.

### **Analysis**

This Hearing was re-convened to consider previously excluded evidence to determine if this evidence would change any of the monetary awards granted at the original Hearing. As explained to the Landlord at the beginning of the reconvened Hearing, this was not an opportunity to reargue her original claim. I have recorded only the testimony that was relevant to the previously excluded evidence.

The previously excluded photographs indicate that the rental unit was not left in a reasonable state of cleanliness at the end of the tenancy. Furthermore, the dining room carpet was burned and stained. At the September 20<sup>th</sup> Hearing, the Landlord testified that the dining room carpet was 5 to 7 years old. The Residential Tenancy Policy Guidelines allow 10 years of useful life for carpeting. I have prorated the balance of the useful life of the dining room carpet based on the median of the age the Landlord

provided. I allow the Landlord's claim in the amount of \$60.00 for the cost of cleaning the rental unit, \$70.00 for shampooing the carpets and \$150.39 for the cost of replacing the dining room carpet (based on 4 years of useful life remaining).

With respect to the Landlord's claim for the shower curtain and the mat, in the September 20<sup>th</sup> Hearing the Tenant acknowledged throwing these items out and stated that she did so because they were mouldy because of moisture problems in the bathroom. The previously excluded photographs depict a rusty, mouldy shower stall in need of repairs. It is the responsibility of a landlord to provide and maintain a rental unit in a reasonable state of repair. Therefore, this portion of the Landlords' application is dismissed.

Based on the previously excluded photographic evidence, the Landlord has established that the Landlords had cause to change the locks on April 12, 2010. The receipt for the locks indicates that they were purchased on April 12, 2010. I allow this portion of the Landlords' claim in the amount of \$92.93.

Based on the previously excluded photographic evidence and the receipt provided, the Landlords have established their monetary claim for the cost of replacing the curtain in the amount of \$22.37.

Based on the previously excluded photographic evidence and the receipt provided, the Landlords have established their monetary claim for the cost of exterior paint in the amount of \$39.97.

Based on the previously excluded photographic evidence and the receipt provided, the Landlords have established their monetary claim for the cost of disposing of garbage in the amount of \$42.20.

The Landlords did not provide documentary evidence with respect to the cost of repairing the custom made lattice, however, I accept the Landlord's testimony with

respect to the Tenant removing the lattice. The previously excluded photographs show that there was some damage to the custom made lattice and that two fence post caps were split. I find the Landlords' claim to be reasonable and allow this portion of the Landlord's claim in the amount of \$55.00.

Based on the previously excluded photographic evidence and the receipt provided, the Landlords have established their monetary claim for the cost of replacing the kitchen tiles in the amount of \$31.94.

I dismiss the Landlord's request to recover the cost of filing the Review Application. The Landlords filed their Application for Dispute Resolution on May 7, 2010. The photographs in the previously excluded evidence were taken on April 13, 2010. Applicants are required to provide the Residential Tenancy Branch and the Respondents with copies of their documentary evidence as soon as possible and in any event 5 clear days before the Hearing date. The Landlords did not provide the Tenant or the Residential Tenancy Branch with the photographs until September, 2010.

The Monetary Order issued September 24, 2010, is hereby cancelled and is of no force or effect. Based on a review of the previously excluded evidence, the Landlords have established a monetary award, calculated as follows:

Unpaid rent for April, 2010	\$700.00
Damages agreed to by Tenant	\$115.23
Cost of replacing stove	\$150.00
Cost of repairing exterior around windows	\$36.99
Cost of repairing living room wall	\$11.99
Cost of general cleaning of the rental unit	\$60.00
Cost of shampooing the carpets	\$70.00
Cost of replacing the dining room carpet (prorated)	\$150.39
Cost of rekeying locks	\$92.93
Cost of replacing the curtain	\$22.37
Cost of repairing lattice and replacing fence caps	\$55.00
Cost of garbage removal	\$42.20
Cost of replacing kitchen tiles	\$31.94

Recovery of the filing fee for initial Application	<u>\$50.00</u>
TOTAL MONETARY AWARD	\$1,589.04

Pursuant to the provisions of Section 72 of the Act, the Landlords may apply the security deposit and pet damage deposit, together with the interest that has accrued on the deposits, towards partial satisfaction of their monetary award. Interest in the amount of \$1.75 has accrued on the security deposit, and \$.77 has accrued on the pet damage deposit.

The Landlords are hereby provided with a Monetary Order against the Tenant, calculated as follows:

Monetary award	\$1,589.04
Less security deposit, pet deposit and accrued interest	<u>-\$527.52</u>
BALANCE DUE TO LANDLORDS AFTER SET-OFF	\$1,061.52

### **Conclusion**

The Monetary Order issued September 24, 2010, in the amount of \$536.69 is cancelled and is of no force or effect.

I hereby grant the Landlords a Monetary Order in the amount of \$1,061.52 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.

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: December 06, 2010.

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