



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      MND, MNDC, MNSD, & FF

### Introduction

This hearing dealt with an application by the landlord seeking a monetary claim against the tenant related to damage caused to the rental unit and cleaning of the rental unit. Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross examine the other party, and make submissions to me.

### Issue(s) to be Decided

Did the tenant breach the tenancy agreement, *Act* or regulations entitling the landlord to monetary relief due costs to clean and repair the rental unit?

### Background and Evidence

This tenancy began November 1, 2006 for the monthly rent of \$795 and security and pet deposits of \$395.50 and \$352.20 paid on October 6, 2006. The monthly rent at the end of the tenancy was \$880.00. The tenancy ended effective August 31, 2010. The parties conducted written move in and move out condition inspection reports on November 1, 2006 and August 31, 2010.

The landlord seeks a monetary claim of \$1,870.00 from the tenant due to costs associated with repairing and cleaning the rental unit. On the move out condition inspection report the following deficiencies were identified:

- A chip in the stove;
- Cat claw damage to the drapes in the living room;
- Holes in the master bedroom wall;
- Holes in the bedroom door;
- Some wall damages.

The landlord has provided receipts for repairing these items as follows:

- Repair of bedroom wall in the amount of \$100.00;
- Repair of bedroom door in the amount of \$150.00;
- Repair of chip in stove in the amount of \$50.00; and
- Portion of the cost to replace the living room drapes in the amount of \$175.00.

The landlord also seeks the sum of \$120.00 related to cleaning the rental unit. The landlord also seeks the sum of \$1,000.00 related to a pro-rated portion of replacing the carpets in the rental unit including partial replacement of the sub-flooring. The landlord submits that the tenant's pet urinated on the carpets in several locations and the urine was soaked right into the subflooring. The landlord acknowledged that there was no problems identified with the carpets on the move out condition inspection; however, stated that when the inspection was completed the windows and doors were open in the rental unit. The problem was not discovered until the new occupants moved into the rental unit.

The landlord provided a copy of a letter from the new occupants dated September 3, 2010 a few days after the tenancy ended. The new occupants describe a problem of rotten or soft areas in the doorway of the master bedroom and a spot in the hallway. The occupants also state that there is an overwhelming smell of cat urine in the hallway and the kitchen entrance. In response to this complaint the landlord had the carpets cleaned and deodorized and provided a copy of the receipt for this treatment. However, the landlord stated that it did not help with the problem as demonstrated by the follow up letter of the new occupants on September 8, 2010 stating that the smell is still in the unit.

As a result of the pet urine damage the landlord conducted further investigations and determined that the carpets needed to be replaced and portions of the subflooring needed to be replaced. In response to questioning from the tenant, the landlord acknowledged that areas of the subflooring were problematic when the tenant was living in the unit. As a result the landlord is only claiming a portion of the expense against the tenant in the amount of \$1,000.00. The landlord provided receipts demonstrating that the actual costs exceeded \$7,000.00.

The landlord confirmed that the carpet in the rental unit was approximately 7 or 8 years old.

The tenant argued that the landlord's claim respecting the carpet only were raised after the tenancy had ended and that no problems were identified during the move out condition inspection on August 31, 2010. In addition the tenant pointed out that the carpets were stained when his tenancy began and that he informed the landlord of weak spots in the subflooring during his tenancy. The tenant denied any problem of the smell of pet urine during his occupancy.

The tenant stated that he was only told about issues with carpet cleaning, drape cleaning and further cleaning of the unit at the end of the tenancy. He believed that the landlord was being picky about things. The tenant also acknowledged that his cat had damaged the drapes in the living room and some deductions would be made for this and for cleaning the rental unit.

The tenant submitted that he patched the holes in the bedroom walls and submitted this was normal wear and tear. The tenant also argued that the holes in the doors were normal wear and tear and that the doors were very old.

### Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard. To prove a loss and have one party pay for the loss requires the other party to prove four different elements:

First proof that the damage or loss exists, secondly, that the damage or loss occurred due to the actions or neglect of the Respondent in violation of the Act or agreement, thirdly, to establish the actual amount required to compensate for the claimed loss or to repair the damage, and lastly proof that the claimant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Claims for compensation related to damage to the rental unit are meant to compensate the injured party for their actual loss. In the case of fixtures of a rental unit a claim for damage and loss is based on the depreciated value of the fixture and not based on the replacement cost. This is to reflect the useful life of fixtures, such as carpets and countertops, which are depreciating all the time through normal wear and tear.

In most cases the move in and move out condition inspection reports, when available, are accepted as the best reflection of the actual condition of the rental unit unless a

preponderance of evidence demonstrates that it is not. In the case before me I am satisfied that the carpets and the subfloor in places were damaged by cat urine. Although it was noted on the move out condition inspection report I am satisfied that the activation of the urine smell resulted from the landlord having the carpets cleaned on August 31, 2010 and I am satisfied on the balance of probabilities that if the carpets had been cleaned on August 30, 2010 the urine smell would have been identified by the landlord.

I am also persuaded by the immediate complaints received by the landlord from the new occupants that the smell was pre-existing and not resulting from any action or neglect of the new occupant. The tenant occupied this suite for four years with a pet and I am satisfied that the smell of urine and damage to some of the subflooring was a result of this pet damage. Therefore, I accept the landlord's claim in the amount of \$1,000.00 towards the replacement of the flooring.

I find that the \$1,000.00 claimed an accurate estimate of the tenant's portion of liability to the total replacement cost less depreciation. Given that the carpets were 7 to 8 years old there was only 2.5 years of useful life in the carpets or a value of \$1,750.00. From this sum the loss experienced by the landlord is reduced by \$750.00 to reflect that there was other damage to the subflooring for which he was not responsible and to reflect that the landlord replaced the original carpeting with upgraded flooring.

I also find that the landlord has established the other portions of this application except for the \$50.00 damage to the stove and the damage to the bedroom wall. I am satisfied that the stove was previously damaged when the tenancy began and after a further four year tenancy there is no further useful life in the stove to claim \$50.00 from the tenant. I am also satisfied that the tenant patched the holes in the bedroom wall and this satisfied his obligation under the tenancy agreement.

I accept the landlord's claim for the cost to replace the drapes in the living room in the amount of \$175.00 due to pet damage, the cost of repairing holes in the bedroom door for the amount of \$150.00 and the cost to have the rental unit cleaned in the amount of \$120.00. I also grant the landlord's request to recover the \$50.00 filing fee paid for this application from the tenant.

I accept that the landlord has established a total monetary claim in the amount of \$1,495.00. From this sum I authorize that the landlord may retain the tenant's security and pet deposits of \$748.00, plus accumulated interest of \$23.55 in partial satisfaction of this claims leaving an outstanding balance owing of **\$723.45**.

Conclusion

The landlord established a monetary claim related to damage to the carpets and costs to clean and repair the rental unit. After retaining the tenant's security and pet deposits in partial satisfaction of this claim, there is an outstanding balance owed to the landlord for the amount of **\$723.45**.

I grant the landlord a monetary Order for the sum of **\$723.45**. This Order must be served on the tenant. This Order may be filed with the Province of British Columbia Small Claims Court 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: January 20, 2011.

---

Residential Tenancy Branch