



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      MND, MNR, MNSD, FF

### Introduction

This hearing dealt with the landlord's request for a Monetary Order for unpaid utilities, damage to the rental unit, authorization to retain the security deposit, and recover the filing fee from the tenants. The tenants did not appear at the hearing.

The landlord provided a copy of a registered mail receipt for mail sent to the female tenant on November 17, 2010 and a registered mail tracking print-out from Canada Post for registered mail the landlord sent to the male tenant. Both hearing packages had been sent to the same address and the tracking information shows that the packages were successfully delivered to a different individual who resides at the property on November 20, 2010. The landlord explained that this person is the ex-spouse of one of the tenants. The landlord testified that when the tenants vacated the rental unit he followed them to this address and observed them moving in.

I was satisfied the tenants were served via registered mail sent to an address at which they resided and I proceeded to hear from the landlord without the tenants present.

### Issue(s) to be Decided

1. Has the landlord established an entitlement to compensation for damage to the rental unit?
2. Has the landlord established an entitlement to compensation for unpaid utilities?
3. Is the landlord authorized to retain the security deposit?

### Background and Evidence

The tenancy commenced April 1, 2010 and the tenants paid \$500.00 towards a security deposit and pet deposit. The tenants were required to pay rent of \$950.00 on the first day of every month for a fixed term of one year.

On August 9, 2010, under dispute resolution file number 752310, the landlord was granted an Order of Possession and a Monetary Order for unpaid rent in the amount of

\$1,900.00 for the months of July and August 2010. The landlord was provided leave to reapply to unpaid utilities.

The landlord testified that the tenants vacated the rental unit in mid-August 2010. In making this application, the landlord is seeking to recover the following amounts from the tenants:

<u>Item</u>	<u>Reason</u>	<u>Amount claimed</u>
New lock	Keys not returned by tenants.	33.60
Blind cleaning	Tenants smoked and had dog in unit.	56.00
Carpet cleaning	Carpets cleaned twice because heavily soiled.	33.55 + 155.49
General cleaning	Paid to cleaning lady for cleaning cupboards, windows, closets, bathroom, appliances and floors.	70.00
Utilities	Bills in landlord's name. Gave copies of bills to tenants. Bills are divided in half as two units are on one meter.	408.16
Security deposit		500.00
Filing fee		<u>50.00</u>
TOTAL		\$ 1,698.80

As evidence for this proceeding the landlord provided copies of receipts, invoices and photographs in support of the amounts claimed above. The landlord also provided a copy of the tenancy agreement and move-in inspection report and a document signed by the tenant April 3, 2010 indicating how the unit is expected to be cleaned at the end of the tenancy.

### Analysis

At the end of a tenancy a tenant has the obligation to leave the rental unit undamaged and reasonably clean under the Act. The tenant is also required to return keys to the landlord.

When a party makes a claim for compensation against another party, the applicant has the burden to prove the other party violated the Act, regulations or tenancy agreement and suffered a loss equal to the amount claimed as a result of that violation.

Awards for damages are intended to be restorative, meaning the award should place the applicant in the same financial position had the damage not occurred. Where an item has a limited useful life, it is necessary to reduce the replacement cost by the depreciation of the original item. In order to estimate depreciation of the replaced item, I have referred to normal useful life of the item as provided in Residential Tenancy Policy Guideline 37.

Upon review of the move-in inspection report and the photographs depicting the condition of the rental unit at the end of the tenancy I make the following findings:

- The walls were marked and damaged during the tenancy. Since interior paint has an ordinary useful life of 4 years the landlord's claim for painting costs has been reduced to reflect six months of wear and tear. The landlord is awarded  $\$392.00 \times 42/48 \text{ months} = \$343.00$ .
- In the absence of evidence to the contrary, I accept that the keys were not returned by the tenants. To reflect normal depreciation of the lock I reduce the landlord's claim for a new lock to \$25.00.
- Since the tenants had a pet in the rental unit, I find it reasonable that the tenants be held responsible for blind cleaning and carpet cleaning despite the short duration of the tenancy. I grant the landlord's request for recovery of these amounts for a total award of  $\$56.00 + 33.55 + 155.49 = \$245.04$ .
- I accept the rental unit required additional cleaning in general and I award the landlord the amount of \$70.00 as claimed.

Upon review of the tenancy agreement I accept that the tenants were responsible for 50% of the electricity, gas and water bills. The landlord provided copies of Terasen gas bills and bills from the City of Kelowna for electricity and water consumption. The landlord did not provide a breakdown of the total amount claimed and I have determined the landlord's entitlement to compensation for utilities based upon the bills presented to me. I have not included any balances forward that appear on the bills and have relied upon only current charges that appear on the bills.

The Terasen gas bills relate to gas consumption between April 3, 2010 and September 1, 2010 totalling \$206.65 for that period. The landlord provided copies of bills from the City of Kelowna for electricity and water provided from March 17, 2010 through July 16, 2010 totalling \$566.69. I accept that the bills provided for electricity and water approximate what would have been used by the tenants for April through August 2010. I award the landlord utility costs equal to 50% of the amounts determined above for an award of  $\$386.67 [(\$206.65 + 566.69) \times 50\%]$ .

Since the landlord was largely successful with this application I award the filing fee to the landlord. The security deposit is not added to the above awards as requested by the landlord. Rather, a security deposit and pet deposit may be used to offset amounts otherwise owed to the landlord. I authorize the landlord to retain the security deposit and pet deposit in partial satisfaction of the amounts owed the landlord. The Monetary Order provided to the landlord is calculated as follows:

<u>Item</u>	<u>Amount claimed</u>	<u>Amount awarded</u>
New lock	33.60	<b>25.00</b>
Blind cleaning	56.00	<b>56.00</b>
Carpet cleaning	33.55	<b>33.55</b>
	+ 155.49	<b>+ 155.49</b>
General cleaning	70.00	<b>70.00</b>
Utilities	408.16	<b>386.67</b>
Security deposit	500.00	<b>(500.00)</b>
Filing fee	<u>50.00</u>	<u><b>50.00</b></u>
<b>TOTAL</b>	<b>1,698.80</b>	<b>\$ 619.71</b>

The Monetary Order must be served upon the tenants and may be enforced in Provincial Court (Small Claims) as an Order of that court.

### Conclusion

The landlord has been authorized to retain the tenants' security deposit and pet deposit and has been provided a Monetary Order for the balance owing of \$619.71.

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 16, 2011.

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Residential Tenancy Branch