



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

MND, MNSD, FF

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for damage to the rental unit; to keep all or part of the security deposit/pet damage deposit; and to recover the fee for filing this Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make submissions to me.

The Landlord submitted documents to the Residential Tenancy Branch, copies of which were served to the Tenant. The Tenant acknowledged receipt of the Landlord's evidence and it was accepted as evidence for these proceedings. The Tenant submitted documents to the Residential Tenancy Branch, copies of which were served to the Landlord. The Landlord acknowledged receipt of the Tenant's evidence and it was accepted as evidence for these proceedings.

### Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to compensation for damage to the rental unit, to retain all or part of the security deposit/pet damage deposit paid by the Tenant, and to recover the filing fee for the cost of this Application for Dispute Resolution.

### Background and Evidence

The Landlord and the Tenant agree that this tenancy began on August 01, 2009 and that it ended on May 31, 2011. The Landlord contends that the Tenants paid a \$1,000.00 pet damage deposit and a \$1,000.00 security deposit. The Tenants contend that they paid a \$2,000.00 security deposit.

The Landlord submitted a condition inspection report that was completed on July 17, 2009, which was signed by both Tenants. The report indicates that rental unit was in good condition at the start of the tenancy.

The Landlord submitted a condition inspection report that was completed on May 31, 2011, which outlines a variety of deficiencies with the rental unit. Both Tenants signed the report, on which they declare that they do not agree that the report fairly represents the condition of the rental unit.

The Landlord is seeking compensation, in the amount of \$424.67 for painting the rental unit. The Landlord submitted a receipt to show that it paid \$784.00 to paint the unit.

The Agent for the Landlord stated that the rental unit required painting because there were numerous nail holes in the wall, of the type that are typically associated with hanging pictures and because there were several scuffed areas on the walls and trim. The Landlord submitted photocopies of photographs of the walls in which holes in the walls can be seen. No other significant damage to the walls/trim can be seen in the photographs.

The Tenants acknowledge that there were nail holes in the wall from hanging art and that there were minor scuffs on the walls, which they contend is normal wear and tear for a two year tenancy. The Tenants submitted photographs of the walls in the rental unit, in which the walls appear to be in reasonable condition.

The Landlord is seeking compensation, in the amount of \$308.00, for cleaning the rental unit. The Landlord submitted a receipt to show that it paid \$308.00 to clean the unit.

The Agent for the Landlord stated that the rental unit was not cleaned properly at the end of the tenancy. He stated that the blinds were dusty, that the microwave filter and stove top were oily, that the bathtub was extremely dirty, and that the fan cover in one of the bathrooms was very dirty. The photocopied photographs submitted by the Landlord show that a bathroom fan cover is quite dirty; that the taps in a bathtub have not been polished, although they do not appear dirty; that there are minor spots on the carpet; that a light bulb cover has not been properly cleaned; that there is some dust in the unit, which the Landlord alleges came from the blinds; and that there are some smudges on the front of the stove. Although the Agent for the Landlord stated that the bathtub that was damaged during this tenancy was filthy, pictures submitted by the Landlord show that the bathtub and shower are very clean, with the exception of the taps not being polished.

The Tenants contend that the rental unit was left in very clean condition. The Tenants submitted photographs of the rental unit, in which the unit appears to be in reasonably clean condition. The Tenants submitted a photograph of the air filter from the microwave, which appears to be quite clean; pictures of the sink, which appears scratched but clean; pictures of the stove, which appears very clean; and a picture of the inside of the microwave door, which appears clean .

The Landlord is seeking compensation, in the amount of \$63.63, for cleaning supplies and light bulbs. The Landlord submitted a receipt to show that \$9.98 of this claim relates to the purchase of light bulbs and the rest was for cleaning supplies. The Agent for the Landlord stated that it purchased 2 light bulbs for \$9.98 and only one light bulb in the unit needed replacing at the end of the tenancy.

The Tenants agree that one light bulb was burned out at the end of the tenancy and they agree that the Landlord is entitled to compensation for replacing the bulb.

The Landlord is seeking compensation, in the amount of \$112.00, for repairing a chip in the bathtub. The Landlord did not submit a receipt in support of this claim. The Agent for the Landlord stated that the chip in the bathroom was not noticed during the inspection on May 31, 2011 and that he noticed it when he viewed the rental unit on June 01, 2011. He stated that there was dirt ground into the chip, which caused him to conclude that the chip was not new and could not have been caused by painters who had access to the unit after May 31, 2011.

The Tenants contend that they have never noticed a chip in the bathtub; that there were painters in the rental unit after the inspection on May 31, 2011 and before the chip was noticed on June 01, 2011; and that it is entirely possible that the painters chipped the bathtub.

### Analysis

When making a claim for damages under a tenancy agreement or the *Act*, the party making the claim has the burden of proving their claim. Proving a claim in damages includes establishing that a damage or loss occurred; that the damage or loss was the result of a breach of the tenancy agreement or *Act*; establishing the amount of the loss or damage; and establishing that the party claiming damages took reasonable steps to mitigate their loss.

Section 37(2)(a) of the *Act* stipulates that tenants must leave the rental unit reasonably clean and undamaged except for reasonable wear and tear.

After viewing the photographs of both parties, I find that the damage to the walls in this rental unit constitutes reasonable wear and tear. I find that the Landlord has failed to establish that the nail holes in the walls or the scuffs on the wall exceed what can be normally expected during a tenancy of this length. I therefore find that the Tenants did not breach the *Act* when they left the walls in this condition. As the Tenants did not breach the *Act* in relation to the condition of the walls, I find they are not obligated to compensate the Landlord for painting the walls.

After viewing the photographs of both parties, I find that the rental unit was left in reasonably clean condition. The *Act* does not require tenants to leave the rental unit in pristine condition. In my view the expectations of the Landlord exceed the requirements

of the *Act*. I specifically note that the Agent for the Landlord believes that the bathtub is very dirty, which is simply not corroborated by the pictures submitted by the Landlord. I further note that the Agent for the Landlord believes that the stove and the microwave are very dirty, which is simply not corroborated by the pictures submitted by the Tenant. While I agree some minor cleaning was still required, I find that the Landlord has failed to establish that the rental unit was not left in reasonably clean condition. I therefore find that the Tenants did not breach the *Act* when they left the rental unit in this condition. As the Tenants did not leave the rental unit in unreasonably clean condition, I find they are not obligated to compensate the Landlord for costs associated to cleaning the rental unit.

As the Tenants acknowledged that one light bulb was burned out at the end of the tenancy and they agreed to compensate the Landlord for the cost of replacing the light bulb, I find that the Landlord is entitled to compensation for the cost of one light bulb, which in these circumstances was \$4.99.

I find that the Landlord submitted insufficient evidence to establish that the Tenants chipped the bathtub during their tenancy. In reaching this conclusion I was heavily influenced by the fact that neither party noticed the damage during the inspection on May 31, 2011; that the Tenants deny causing the damage; and that painters had access to the unit after the inspection was completed and before the damage was noticed. I find it entirely possible that the painters caused the damage to the tub. Although the Agent for the Landlord contends that there was dirt ground into the chip that causes him to conclude that the damage is old, the pictures submitted in evidence by the Landlord are of insufficient quality for me to conclude that the damage is old. As the Landlord has failed to establish that the Tenants damaged the bathtub, I find that the Tenants are not obligated to compensate the Landlord for the cost of repairing the tub.

In determining this matter, I placed little weight on the condition inspection report that was completed at the end of the tenancy, as the Tenants did not agree that this written report accurately reflected the condition of the rental unit.

### Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$4.99, which is compensation for replacing one light bulb. I authorize the Landlord to deduct this amount from the Tenants' security deposit, in full satisfaction of this monetary claim.

I decline to award the Landlord compensation for the cost of filing this Application for Dispute Resolution, as I find it highly likely that the Tenants would have agreed to pay for the light bulb without the need for this hearing.

I find that the Landlord must return the remainder of the Tenant's deposit, in the amount of \$1,995.01 and I grant the Tenants a monetary Order for that amount. In the event that the Landlord does not comply with this Order, it may be served on the Landlord,

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: September 12, 2011.

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Residential Tenancy Branch