



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNDC, MNSD and FF

### Introduction

This hearing was convened on application by the landlords on July 3, 2012 seeking authorization to retain the tenant's security deposit, in compliance with section 38(1) of the Act, in set off against cleaning and repair costs incurred at the conclusion of the tenancy. The landlords also sought to recover the filing fee for this proceeding from the tenant.

### Issue(s) to be Decided

Are the landlords entitled to retain the tenants security deposit in as full satisfaction of the large damage and losses as claimed?

Claims in damages require that several factors be taken into account: the comparison of move-in vs. move-out condition inspection reports, whether damages are proven and attributable to the tenant, normal wear and tear, depreciation, and whether amounts claimed are proven and reasonable. The burden of proof falls to the applicant.

### Background, Evidence and Analysis

This tenancy began on February 26, 2010 and ended on June 30, 2012, although the tenant gave up vacant possession earlier to permit the landlords time to ready the unit for a new tenancy. Rent was \$1,200 per month and the landlords hold a security deposit of \$600 paid on March 1, 2010.

The parties conducted a proper move-out condition inspection on June 30, 2012. Both parties have submitted photographic evidence and receipts in support of their claims.

The landlords submit that they each spent six hours cleaning and doing minor repairs to the rental unit for which they claim \$40 per hour for a total of \$480 plus \$85 in materials.

The tenant submitted receipts from Molly Maid for \$420 for cleaning done on June 27, 2012, a receipt for carpet cleaning for \$101.92, and a receipt for professional movers for \$477.58.

The landlords pointed to an addendum to the rental agreement which required the tenant to leave the rental unit in the same conditions as it was when he moved in. While they acknowledged the work done by the professionals engaged by the tenant, they stated that it was not up to standard necessitating the further work.

The stated that they had to do the additional cleaning and patch half a dozen picture hanging type holes in the wall and do the touch up.

A particular concern was two stains left in the bedroom carpet from the tenant's furnishings. The tenant acknowledged the stains and stated efforts to remove them had not succeeded. He noted and the landlords concurred that the carpets were eight years old. The landlords stated that they had not yet remedied the stains as they were awaiting word from the strata insurance as to whether replacement would be covered but note a \$1,000 deductible.

### Analysis

As noted during the hearing, the addendum to the agreement requiring that the rental unit be left as it was at the beginning of the tenancy is only enforceable to the extent that it does not conflict with the legislation. In particular, section 32(4) of the Act states that, "A tenant is not required to make repairs for reasonable wear and tear."

I find that the few nail or screw holes left in the wall are normal wear and tear as stated in the Residential Tenancy Policy Guidelines.

In addition, while I find that the landlords were left with some refinement of the cleaning done by the professional cleaners, I find that both the hourly rate and time claimed for the work is far beyond reasonable and I allow \$150 in total.

As to the bedroom carpet, given that it is eight years old and approaching the end of its 10-year useful life, the stains are minor and were not a detriment to finding new tenants, and there is no evidence of an attempt at repair by the landlords, I award \$125 for diminishment of value.

As the application has partly succeeded on its merits, I find that the landlords may recover one-half of their \$50 filing fee from the tenant.

In total, I find that the landlords are entitled to retain \$300 from the security deposit and must return the remaining \$300, and provide the tenant with a Monetary Order for that amount.

### Conclusion

The landlord's are authorized to retain \$300 of the tenant's security deposit and must return the balance.

The tenant's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for **\$300** for service on the landlords if necessary.

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, 2012.

---

Residential Tenancy Branch