



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND and FF

### Introduction

The hearing was convened on the landlords' application of January 3, 2013 seeking a monetary award for damage to the rental unit and recovery of the filing fee for this proceeding.

### Issue(s) to be Decided

This application requires a decision on whether the landlords are entitled to a monetary award for the claims submitted.

Claims in damages require that several factors be taken into account: whether damages are proven and attributable to the tenant, the comparison of move-in vs. move-out condition inspection reports, normal wear and tear, depreciation, and whether amounts claimed are proven and reasonable. Damage or loss due to non-compliance with the legislation or rental agreement requires the claimant to take reasonable steps to minimize the loss claimed. The burden of proof falls to the applicant.

### Background and Evidence and Analysis

This tenancy began on October 1, 2009 ended on November 30, 2012 pursuant to a Mutual Agreement to End Tenancy. Rent was \$1,350 and the landlords held a security deposit of \$675.

As a matter of note, the parties did not complete the joint move-out inspection. However, given that the second opportunity given on the approved form as prescribed by Regulation 17(2)(b) was not provided to the tenant until several days from the end of the tenancy, I find that the tenant's right to return of the security deposit was not extinguished by section 35 of the *Act*.

By letter dated December 20, 2012, the tenant had provided the landlords with a forwarding address and requested return of the security deposit, but the landlords made application within 15 days and remains eligible to claim against it.

The landlords submitted copies of the move-in and move-out condition inspection reports, a large number of photographs, and paid invoices in support of the following claims on which I find as follows:

**Carpet cleaning – \$112.00.** While the tenant stated she had rented a carpet cleaning unit for \$20 to clean the carpets, the rental agreement required that carpets be professional cleaned at the end of the tenancy. Therefore, on the basis of the paid receipt submitted by the landlords, this claim is allowed in full.

**Painting and filling holes in three walls - \$300.00.** This claim arises from the fact that the tenant had mounted shelving on a bedroom wall which left about a dozen holes when it was removed. Taking into account normal wear and tear and depreciation of the three year old paint job, I am reducing the award on this claim to \$75.

**General cleaning - \$117.43.** The tenant stated that she and helpers had thoroughly cleaned the rental unit while the attending landlord stated she had paid this invoice in addition to spending considerably more time cleaning herself for which she makes no claim. On the basis of photographic evidence and the paid receipt, I find that this claim was warranted and it is allowed in full.

**Garbage removal – \$189.28.** The cost of removing two mattresses and a television set were included in this claim, supported by photographs and paid receipt and it is allowed in full.

**Replace key fob – \$50.00.** The tenant concurred that she had not returned one of the key fobs and this claim is allowed in full.

**Replace broken toilet tank cover - \$30.00.** The tenant stated that she had no knowledge of a chip broken off the toilet tank cover, but the damage is verified by the photographic evidence and the claim is allowed.

**Replace burnt carpet \$150.00.** The landlord withdrew this claim.

**Reinstall original lock – \$106.40.** The tenant had replaced the original door lock with her own without consent and this amount is claim for the cost of restoring the landlord's lock. The claim is supported by a receipt and it is allowed.

**Filing fee - \$50.** As the application has succeeded on its merits, I find that the landlords are entitled to recover the filing fee for this proceeding from the tenants.

**Security deposit – (\$675).** As authorized by section 72(2) of the Act, I order that the landlord retain the security deposit in set off against the balance owed.

Carpet cleaning	\$112.00
Painting and filling holes in three walls	75.00
General cleaning	117.43.
Garbage removal	189.28
Replace key fob	50.00
Replace broken toilet tank cover	30.00
Reinstall original lock	106.40
Filing fee	<u>50.00</u>
Sub total	\$730.11
Less retained security deposit (No interest due)	- <u>675.00</u>
<b>TOTAL balance remaining owed to the landlords</b>	<b>\$ 55.11</b>

### Conclusion

In addition to authorization to retain the security deposit in set off, the landlords' copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for \$55.11 for service on the tenant.

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: March 25, 2013

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Residential Tenancy Branch

