



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BC Housing Management Commission  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MND, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for a monetary order for alleged damage to, and cleaning of, the rental unit and to recover the filing fee for the Application.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided 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.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

### Issue(s) to be Decided

Is the Landlord entitled to monetary compensation from the Tenant for alleged damages to, or cleaning of, the rental unit?

### Background and Evidence

This tenancy began in October of 1993, and ended in August of 2011. The parties entered into a written tenancy agreement. The Tenant was repaid her security deposit, following the end of the tenancy. The Tenant transferred from the subject rental unit to a different rental unit in the same building.

The Landlord is claiming for a third coat of paint for the rental unit, for the replacement of a door and for carpet cleaning. Receipts in support of these claims were submitted in evidence.

The Landlord claims that the rental unit required three coats of paint, in order to cover the dark paint that was in the rental unit. The Landlord is claiming against the Tenant for only the cost of the third coat of paint, in the amount of \$393.61.

The Landlord also claims that a door on the kitchen cupboard was damaged and had to be replaced. The Landlord is also claiming that a bedroom door was missing and had to be replaced. The Landlord is claiming \$150.00 for these alleged damages.

The Landlord also claims the Tenant did not have the carpet in the rental unit professionally cleaned at the end of the tenancy. The Landlord is claiming \$179.20 for the carpet cleaning.

The Landlord performed a pre-condition inspection report inspection on or about August 2, 2011. The Landlord then performed a final move out condition inspection report on August 28, 2011. The Landlord claims that the Tenant agreed on this report that the carpets required cleaning, as a "yes" appears in the boxes beside the carpet locations in the rental unit, and the Tenant signed the move out condition inspection report.

In the boxes regarding walls in the rental unit, the Agents for the Landlord wrote, "NP 2 coats" and in the boxes under charge wrote, "1". The Landlord claims this indicates the Tenant agreed to pay for one coat of paint.

In the boxes regarding doors, the following is noted;

- kitchen: cupboard door missing (charge box is marked "yes")
- laundry: door/lock hinges repair (charge box is marked "no")
- 1<sup>st</sup> bedroom: door damaged replace (charge box is marked "yes")
- 2<sup>nd</sup> bedroom: door missing (charge box is marked "yes")

I note that the portion of the move out condition inspection report that requires the Tenant to sign a declaration agreeing to be responsible for the cleaning and repairs has been left blank.

In reply to the Landlord's claims, the Tenant testified that she lived in the rental unit for nearly 20 years and raised a family of four in the unit. The Tenant denies agreeing to pay for any of the claims of the Landlord.

The Tenant testified that in the time she lived in the rental unit the Landlord repainted the rental unit once, about five years after the tenancy began. The Tenant testified she

did not smoke in the rental unit and the walls were painted a dark colour, which she called a “Scandinavian blue”. The Tenant further testified that the carpets were blue as well. The Tenant submits it is not her responsibility to pay for a third coat of paint, just because the Landlord had the rental unit painted a darker blue 16 years ago, and it is hard to cover that colour with the more modern white colour paint. The Tenant denies agreeing to pay for the third coat.

The Tenant testified she kept the rental unit very clean and that the outgoing condition inspection report had the comment, “Tenant cleaned the unit very well”.

The Tenant denies that a door went missing from the bedroom. She testified that there never was a door installed there when she lived in the rental unit, despite her asking for one for several years. The Tenant also submits that the current occupant of the rental unit informed her that the door was not installed.

The Agent for the Landlord testified that the current occupant of the rental unit did not want the door installed. The Agent also testified that the Landlord did not charge the Tenant for repairing the kitchen cupboard door.

In regard to the carpets, the Tenant testified that she had her own carpet cleaning unit and cleaned the carpets twice per year, while she lived there.

### Analysis

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

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in sections 7 and 67 of the *Act*. Accordingly, an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

In this instance, the burden of proof is on the Landlord to prove the existence of the damage or loss and that it stemmed directly from a violation of the Act, regulation, or tenancy agreement on the part of the Tenant. Once that has been established, the Landlord must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Landlord did everything possible to minimize the damage or losses that were incurred.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

In this instance, I find the Landlord has established that the Tenant failed to have the carpets professionally cleaned before vacating the rental unit. Generally speaking, renters are expected to have the carpets professionally cleaned after a tenancy of more than one year. Under the policy guidelines to the Act, the Tenant here was required to professionally clean the carpets, which she failed to do. Therefore, I find the Landlord has established a claim for carpet cleaning.

I dismiss the other claims of the Landlord for the following reasons.

I find that the painting of the rental unit was solely the responsibility of the Landlord here. Under the policy guidelines to the Act, the useful life expectancy of interior paint is listed as four years. Here the paint was more than 14 or 15 years old. Had the Landlord proven that the Tenant smoked in the rental unit, or that the Tenant had painted the rental unit a darker colour, then the Landlord might have proven the Tenant should contribute to the painting. However, after 14 years with the same paint, and absent any evidence that the Tenant had damaged the walls or painted them a dark colour, I find the Landlord is responsible to paint the rental unit and not the Tenant.

I also find the Landlord failed to prove the Tenant was responsible for the loss of, or for any damage to, any doors in the rental unit. Therefore, I find the Landlord failed to prove the Tenant breached the Act or tenancy agreement in regard to the doors. Furthermore, the Landlord's evidence regarding the doors in the rental unit was somewhat confusing, as it was unclear at times during the hearing and in their submissions which doors were being claimed for by the Landlord. For these reasons I find the Landlord failed to prove the Tenant breached the Act or tenancy agreement.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

Having found the Tenant breached the Act by failing to have the carpets professionally cleaned, I find that the Landlord has established a claim for carpet cleaning in the amount of **\$179.20**.

I find that the Landlord has established a total monetary claim of **\$229.20** comprised of the above described amount and the \$50.00 fee paid for this application and I grant the Landlord an order under section 67 for the balance due.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

#### Conclusion

The Landlord has shown the Tenant failed to clean the carpets in the rental unit. The Landlord failed to prove the claims regarding painting the unit or for doors and these are dismissed.

The Landlord is granted a monetary order for \$229.20 for carpet cleaning and the filing fee for the Application.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: May 13, 2013

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Residential Tenancy Branch