



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 643138 BC Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MND, MNDC, MNSD, FF

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for damages – Section 67;
2. A Monetary Order for compensation – Section 67;
3. An Order to retain the security deposit – Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord were each given full opportunity to be heard, to present evidence and to make submissions under oath.

### Preliminary Matter

The Landlord confirmed that a previous decision has dealt with the return of the security deposit and a monetary award was provided to the Tenants. As a result, this matter has been determined and is no longer open to dispute. I therefore dismiss the claim for the retention of the security deposit.

### Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Is the Landlord entitled to recovery of the filing fee?

### Background and Evidence

The tenancy started on July 1, 2008 and ended on January 31, 2013. No move-in or move out inspection and report was completed although the Parties did meet at the unit on the evening of January 31, 2013. Although the Landlord provided photos of the unit, these photos were taken sometime during the tenancy. No photos from the end of the tenancy were provided.

The Landlord states that the Tenants damaged all but two of 21 blinds in the unit. The Landlord states that the blinds were cloth and 1.5 years old at the start of the tenancy and were replaced with standard metal blinds that were less costly than the original blinds. The Landlord states that the 2 blinds that were not damaged amounted to \$44.73 out of the \$1,002.00 claimed. The Tenants state that the blinds were paper and started cracking and breaking within two months of the tenancy. The Tenant states that near the end of the tenancy the Landlord was asked how old the blinds were and did not respond to the Tenant's question.

The Landlord states that the carpets were left stained and filthy from animal feces and that a carpet cleaner advised the Landlord that they could not be cleaned. The Landlord states that the carpets were new 1.5 years prior to the start of the tenancy and claims \$868.46 for the cost of the carpets, \$250.00 for the removal of the old carpets and \$440.00 for the installation of the new carpets. The Tenants state that the carpets were cleaned during the tenancy every three to six months as they owned their own carpet cleaner. The Tenants state that the carpets were cleaned at move-out and that the Landlord stated to them on January 31, 2013 that the carpets were okay. The Tenants state that there were a couple of stains on the carpets that were pre-existing at the start of the tenancy. The Landlord states that he did not say the carpets were okay and that he told the Tenants on January 31, 2013 that he would return the next day for a better look at the unit.

The Landlord states that the Tenants left the walls damaged with paint missing and areas of drywall pulled off. The Landlord states that the damage to the drywall caused

a greater cost for patching. The Landlord claims \$3,000.00 for the labour and \$285.82 for supplies. The Landlord states that the unit was last painted 1.5 years prior to the tenancy start. The Tenants do not dispute that areas of one wall had paint removed from the use of tape to hang items on the walls but state that there was no drywall damage.

The Landlord states that the liners inside the fridge were broken and that the fridge therefore required replacement. The Landlord states that the fridge was purchased five years ago at a cost of \$450.00. The Landlord claims \$350.00 for the cost of the new fridge. No receipt was provided. The Tenants state that the fridge was not new at the start of the tenancy and that it had been repaired several times during the tenancy as it would not defrost. The Tenants state that there was a small crack around the butter tray but no other damages inside the fridge. The Landlord did not provide any photos of the interior of the fridge.

### Analysis

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. Section 7 of the Act provides that where a tenant does not comply with the Act the tenant must compensate the landlord for damage or loss that results. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding party, that reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed, and that costs for the damage or loss have been incurred or established.

Given the photos of the few damaged blinds taken during the tenancy and considering the Tenants' agreement that the blinds were damaged, it is clear that some blinds were damaged. However considering the Tenant's evidence that the blinds were paper and that the photos appear to confirm this type of blind, I find it is likely significant damage would occur with little normal usage and that the useful life of the blinds would also be

significantly limited. Given the length of the tenancy, it appears more likely that the useful life of the blinds came to its end during the tenancy. I find therefore that the Landlord has not substantiated that the Tenants are responsible for the replacement costs of the blinds and I dismiss this claim.

As the Landlord provided no photos of the carpets at the end of the tenancy and only hearsay evidence of a carpet cleaners inspection and advice, considering the Tenant's evidence that the carpets were cleaned at the end of the tenancy and had pre-existing stains, and given that there is no move-in condition report to show the condition of the carpet at move-in, I find that the Landlord has failed to substantiate on a balance of probabilities that the Tenants caused the carpets to be damaged as claimed and I dismiss this claim.

Residential Policy Guideline #40 provides that the general useful life of interior paint is four years. Given the evidence that the unit was not painted for approximately six years, I find that the Landlord has not substantiated any loss or costs in now painting the walls. Although the Landlord argues that the drywall was damaged on the walls, the photos of the unit taken during the tenancy do not show any damage on the walls other than one wall where the paint is seen to be pulled away. No drywall damage is otherwise evident. Considering the Tenants' evidence that no drywall was damaged, I find that the Landlord has failed to substantiate on a balance of probabilities greater damage to the walls that would incur a cost over the cost of painting the unit. I therefore dismiss the claims for painting the unit.

Given the lack of supporting evidence from the Landlord in relation to the state of the interior of the fridge, considering the Tenants' evidence of only a small crack and noting the undisputed evidence that the fridge was repeatedly repaired during the tenancy, I find that the Landlord has failed to substantiate on a balance of probabilities that the Tenants caused such damage to the fridge that it required replacement. I therefore dismiss this claim.

Since the Landlord's application has met with no success, I decline to award recovery of the filing fee and the application is in essence dismissed.

Conclusion

The Landlord's application is dismissed.

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: February 21, 2014

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Residential Tenancy Branch

