



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MND, MNDC, MNSD, FF

### Introduction

This hearing concerns an application by the landlord for a monetary order as compensation for damage to the unit, site or property / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee. Both parties attended and gave affirmed testimony.

### Issue(s) to be Decided

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

The unit which is the subject of this dispute is over 20 years old, having been built in 1992. The landlord has owned the unit for approximately 10 years. Following its purchase, the landlord lived in the unit for about 3 ½ years prior to renting it to a third party for 1 year. Thereafter, pursuant to a written tenancy agreement the subject tenancy began on September 01, 2008, and lasted a little more than 5 years.

Monthly rent was due and payable in advance on the first day of each month. At the outset of tenancy rent was \$2,100.00; subsequently, there were 4 separate rent increases, the most recent of which had the effect of increasing the rent to \$2,400.24 effective August 01, 2013. A security deposit of \$1,050.00 was collected on July 28, 2008. A move-in condition inspection report was completed with the participation of both parties near the start of tenancy.

Tenancy ended on October 31, 2013. A move-out condition inspection report was completed with the participation of both parties on that same date. The parties were unable to reach full consensus around what may be the tenant's responsibility for the cost of certain cleaning and repairs following the move-out condition inspection process. New renters took possession of the unit later in the day on October 31, 2013.

Thereafter, the tenant informed the landlord of her forwarding address in writing on November 21, 2013, and the landlord subsequently filed an application for dispute resolution on December 04, 2013. The landlord's application was later amended prior to the hearing held on March 26, 2014.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Based on the testimony and the documentary evidence which includes, but is not limited to, email exchanges between the parties, quotations, invoices and photographs, the various aspects of the landlord's application and my related findings are set out below.

#### **\$75.00: *replacement of key fob***

The parties do not dispute that the tenant bears responsibility for this cost. Accordingly, I find that the landlord has established entitlement to the full amount claimed.

#### **\$240.00: *cleaning in the unit***

Section 37 of the Act speaks to **Leaving the rental unit at the end of a tenancy**, in part as follows:

37(2) When a tenant vacates a rental unit, the tenant must

- (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and
- (b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

Further, Residential Tenancy Policy Guideline # 1 addresses "Landlord & Tenant – Responsibility for Residential Premises."

The tenant testified that she spent \$345.00 for 3 hours of professional cleaning in the unit at the end of tenancy. The landlord takes the position that the move-out condition inspection report reflects the tenant's agreement that 2 hours of additional cleaning was still required by the service provider hired by the tenant; however, the tenant testified

that her signature on the move-out condition inspection report was not intended necessarily to signal agreement that as much as 2 hours of additional cleaning was required or, if required, that it would be completed by her particular service provider. However, in her email to the landlord dated November 02, 2013, the tenant confirms, in part, her agreement that “there were areas that were missed.”

Ultimately, circumstances were such that additional cleaning was not either completed by the tenant, or arranged by the tenant to be completed by her service provider. Rather, the landlord incurred \$250.00 for additional cleaning which was completed on November 03, 2013 by a different service provider from the one that had earlier been employed by the tenant. The landlord’s claim for \$240.00 reflects a calculation of the average of the actual cost the landlord incurred (\$250.00), and the cost for 2 hours of cleaning had it been completed by the tenant’s service provider (\$230.00).

I find that only certain areas within the unit fell short of the threshold of “reasonably clean” at the end of tenancy, and that the landlord has therefore established entitlement limited to **\$120.00**, or half the amount claimed.

*\$1,441.45: labour & materials for repairs to closet and kick boards*

The landlord testified that unit renovations completed in 2007 included installation of new hardware, parts / materials and that with the passage of time, design changes precluded the ability to obtain identical supplies in order to complete repairs. The landlord testified that this circumstance contributed to the increased costs of repairs.

Reference on the move-out condition inspection report to damage includes the following notations: “fix closets” and “fix kick.” By way of her signature on the report the tenant appears to have accepted some responsibility for the cost of related repairs. As many or most of the supplies in question were new in 2007, by the end of tenancy they had sustained nearly 7 years of wear and tear over 2 separate tenancies.

Following from all the above, I find on a balance of probabilities that the landlord has established entitlement to compensation in the limited amount of **\$300.00**.

*\$5,562.72: estimated cost of replacing hardwood floor*

The landlord testified that no portion of the hardwood floor has been replaced and, accordingly, that no replacement cost whatsoever has been incurred.

Residential Tenancy Policy Guideline # 40 speaks to the “Useful Life of Building Elements,” and provides that the useful life of hardwood floor is 20 years. The landlord also testified that the subject flooring was installed in early 2007. In the result, the floor had sustained wear and tear over a period approaching 7 years by the time this tenancy ended on October 31, 2013. The move-out condition inspection report makes limited reference to hardwood floor damage.

In consideration of all the foregoing, I find on a balance of probabilities that the landlord has established entitlement to nominal damages in the limited amount of **\$100.00**.

**\$100.00:** *filing fee*

As the landlord has achieved a measure of success with the application, I find that the landlord has established entitlement to recovery of the full filing fee.

**Total entitlement: \$695.00**

I order that the landlord retain **\$695.00** from the security deposit of \$1,050.00, plus interest of \$6.76 [**total: \$1,056.76**], and I order the landlord to repay the balance of **\$361.76** to the tenant (\$1,056.76 - \$695.00).

#### Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **\$361.76**. Should it be necessary, this order may be served on the landlord, filed in the 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: March 31, 2014

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Residential Tenancy Branch

