



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MND, FF

### Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order alleged damage to the rental unit and for recovery of the filing fee.

The landlord (hereafter "landlord") attended the telephone conference call hearing; the tenant did not attend.

The landlord testified that they served each tenant with their Application for Dispute Resolution and Notice of Hearing by registered mail on February 20, 2014. The landlord supplied testimony of the tracking numbers of the registered mail. Upon further inquiry, the landlord submitted that the tenant provided their forwarding address via communication with the landlord, and that two envelopes containing the application and Notice of Hearing were collected. Additionally the landlord submitted that they had received a letter from the tenant referencing this file number.

Based upon the submissions of the landlord, I find the tenant was served notice of this hearing in a manner complying with section 89(1) of the Residential Tenancy Act and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present her evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

*Preliminary matter*-The landlord has listed three tenants as respondents; however, the written tenancy agreement submitted by the landlord shows that only respondent D..HU

was listed as the tenant and the other respondents were listed as occupants. The landlord explained that when occupants become of age, they were considered as tenants.

I have no evidence before me that a tenancy agreement was ever formed with the two occupants and as such, I have excluded them from further consideration in this matter.

Issue(s) to be Decided

Is the landlord entitled to an order for monetary compensation and to recover the filing fee?

Background and Evidence

The written tenancy agreement shows that this tenancy began on March 1, 2009, and ended on June 30, 2013.

The landlord stated that the tenants took possession of the rental unit on February 21, 2009.

The landlord's monetary claim is \$1659, comprised of hauling and landfill fees of \$1348.41, painting for \$230.59, and light cleaning for \$80.

The landlord's additional relevant documentary evidence included the move-in condition inspection report, a pre-move out condition inspection report, the move-out condition inspection report, invoices for painting and hauling, and a work sheet showing cleaning costs.

The landlord testified that the tenant left many items of personal property and garbage, such that they were required to incur costs in removing the property and garbage to the landfill.

As to the painting charges, the landlord submitted that the rental unit was freshly painted at the beginning of the tenancy, and that it was necessary to repaint after the tenant vacated. The landlord explained that they assess the useful life of paint at 60 months, and that they prorated their monetary request to account for the age of the paint.

The landlord stated that it was necessary to provide for a light cleaning after the tenant vacated.

### Analysis

In a claim for damage or loss under the Act, which falls in sections 7 and 67, or tenancy agreement, the claiming party, the landlord in this case, has to prove, with a balance of probabilities, four different elements:

**First**, proof that the damage or loss exists, **second**, that the damage or loss occurred due to the actions or neglect of the respondent in violation of the Act or agreement, **third**, verification of the actual loss or damage claimed and **fourth**, proof that the claimant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails.

In light of the tenant's failure to appear to provide a rebuttal to the landlord's evidence, despite being duly served, I accept the landlord's undisputed evidence.

Section 37 of the *Act* requires a tenant who is vacating a rental unit to leave the unit reasonably clean, and undamaged except for reasonable wear and tear.

As such, the tenant is required to remove all belongings including garbage and to clean the rental unit.

I find the landlord submitted sufficient oral and documentary evidence that the tenant failed to properly and reasonably clean the rental unit, leaving many items of personal property, which required the landlord to remove and incur fees. I also find the tenant failed to properly clean the rental unit and it was necessary for the landlord to provide additional cleaning.

I therefore approve the landlord's monetary claim for hauling and landfill fees of \$1348.41 and cleaning for \$80.

As to the claim for the painting costs claimed by the landlord, Residential Tenancy Branch Policy Guideline number 40 provides a table for the useful life of Building Elements. Where an item has a limited useful life, it is necessary to reduce the repair or replacement cost by the depreciation of the original item. Interior paint has a useful life of 4 years and, as the tenancy endured in excess of 4 years, I find that the paint in the rental unit had fully depreciated and dismiss their claim for \$230.59.

I grant the landlord recovery of their filing fee of \$50.

Due to the above, I find the landlord is entitled to a total monetary award of \$1478.41, comprised of hauling costs of \$1348.41, cleaning of \$80, and the filing fee of \$50.

### Conclusion

The landlord's application for monetary compensation is granted in large part and they have been awarded monetary compensation in the amount of \$1478.41.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act in the amount of \$1478.41, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The tenant is advised that costs of such enforcement are recoverable from 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* and is being mailed to both the applicant and the respondent.

Dated: June 03, 2014

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Residential Tenancy Branch

