



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

MND, MNSD, FF

### Introduction

This hearing was convened in response to cross applications.

On May 12, 2014 the Landlord filed an Application for Dispute Resolution, in which the Landlord applied for a monetary Order for damage to the rental unit; to keep all or part of the security deposit; and to recover the fee for filing this Application for Dispute Resolution. During the hearing the male Landlord clarified that he is only seeking to retain the security deposit of \$625.00 in compensation for the damage to the floor and that is not seeking a monetary Order, as he does not wish to make the effort to enforce a monetary Order.

On May 11, 2014 the Tenant filed an Application for Dispute Resolution, in which the Tenant applied to recover the security deposit and to recover the fee for filing this Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

On May 15, 2014 the Landlord submitted numerous documents to the Residential Tenancy Branch, which the Landlord wishes to rely upon as evidence. The male Landlord stated that these documents were mailed to the Tenant on May 15, 2014. The Tenant acknowledged receipt of these documents and they were accepted as evidence for these proceedings.

On August 11, 2014 the Tenant submitted numerous documents to the Residential Tenancy Branch, which the Tenant wishes to rely upon as evidence. The male Tenant stated that these documents were personally served to the Landlord sometime in May of 2014. The Landlord acknowledged receipt of these documents and they were accepted as evidence for these proceedings.

Issue(s) to be Decided

Is the Landlord is entitled to compensation for a damaged floor and should the security deposit be retained by the Landlord or returned to the Tenant?

Background and Evidence

The Landlord and the Tenant agree that this tenancy began on June 01, 2013; that a security deposit of \$625.00 was paid; and that the keys to the unit were returned on May 01, 2014.

The Landlord and the Tenant agree that a condition inspection report was completed on June 07, 2013 and May 01, 2014, copies of which were submitted in evidence. The reports indicate that there was "minor scratching" on the floor at the start of the tenancy and that the rental unit was "same as moved in" at the end of the tenancy, although the floors were dirty.

The male Landlord stated that when he went to the rental unit to clean the floors on May 03, 2014, he noticed 4 damaged areas on the living room floor. He stated that he believes he did not notice this damage during the inspection on May 01, 2013 due to the dirt on the floor. He stated that he brought the damage to the attention of the Tenant on May 10, 2014.

The male Tenant stated that he never noticed the damage to the floor until it was brought to his attention on May 10, 2014. He speculates that he may not have noticed the damage because there were no lights in the room at the time of inspection and he never moved his couch prior to vacating the rental unit. He does not believe the floors were so dirty that the damage would not have been noticed.

The Landlord and the Tenant agree that the photographs of the floor that were submitted in evidence fairly represent the condition of the floor on May 10, 2014.

The male Tenant stated that he has no idea how the large crack in the floor happened, although he speculates it was simply installed improperly or it was poor quality material, as there does not appear to have been any "impact" applied to that board.

The male Tenant stated that he believes some of the damage was likely caused by his couch; in particular the damage depicted in Tenant photographs #2, 5, and 7. He stated that he does not know what caused the damage in Tenant photograph #9.

The Tenant contends that the floor was poor quality floor and any floor damage that occurred during the tenancy should be considered normal wear and tear. The Landlord estimates that the floors are 4-6 years old and the Tenant estimates they are at least 4 years old.

The Landlord submitted an estimate for repairing the floor, in the amount of \$1,447.74.

### Analysis

On the basis of the condition inspection report that was completed on June 07, 2013, I find that there were minor scratches on the floor at the start of the tenancy. On the basis of the photographs submitted in evidence and the testimony of the male Landlord, I find that the floors were damaged at the end of the tenancy. I find that the damage depicted in the photographs would not normally be described as "minor scratches" and therefore was not present at the start of the tenancy.

As the rental unit was not occupied by anyone other than the Tenant prior to May 10, 2014, when the Tenant first viewed the damage, and the Tenant acknowledged that his couch likely caused at least some of the damage, I find it reasonable to conclude that the damage occurred during the tenancy.

Although the damage to the floors was not noted on the condition inspection report that was completed on May 01, 2014, I find that the photographs, the Landlord's testimony, and the Tenant's acknowledgement that his couch caused at least some of the damage causes me to conclude that the report was not an accurate reflection of the condition of the floors at the end of the tenancy. In reaching this conclusion I was influenced by the Tenant's testimony that there were no lights in the room at the time of the inspection and the undisputed evidence that the floors were dirty at the time of the inspection, both of which could have contributed to the damage being overlooked.

I find that the damage depicted in Tenant photographs #2, 5, and 7, which the Tenant acknowledged were likely caused by his couch is not normal wear and tear. It is commonly understood that wood or laminate flooring can be damaged by hard objects, such as couch legs, and I therefore find it reasonable that a tenant would protect the floor from such damage with the use of felt pads or similar protective devices.

I find that the damage depicted in Tenant photograph #9 is also not normal wear and tear. Although the Tenant cannot recall how this damage occurred it is apparent to me that the damage was caused by a hard object coming into contact with the floor. Normal wear and tear is generally considered to be wear that occurs with normal daily use, not with "accidental contact".

While I find that it is possible the large crack in the floor was the result of faulty materials or faulty installation, I find it more likely that it was caused by some sort of heavy external force. In reaching this conclusion I was heavily influenced by the fact both parties estimate the floor was at least four years old. Given the age of the flooring, I find it more likely that the damage would have occurred prior to the tenancy if the crack was the result of faulty materials or installation.

For all of the aforementioned reasons, I find that the Tenant failed to comply with section 37(2) of the *Act* when the Tenant failed to repair the damage to the floor. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the *Act*.

On the basis of the estimate submitted in evidence, I find that it would cost the Landlord \$1,447.74 to repair the floor. As the Landlord is only seeking to retain the security deposit of \$625.00 in compensation for the damage, which is significantly less than the cost of replacing the floor, I find that the claim is reasonable. I therefore authorize the Landlord to retain the Tenant's security deposit in compensation for this damage.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the filing fee from the Tenant for the cost of an Application for Dispute Resolution.

As the Landlord has established grounds to retain the security deposit, I dismiss the Tenant's application for the return of the deposit and to recover the fee for filling an Application for Dispute Resolution.

### Conclusion

I grant the Landlord a monetary Order for the amount \$50.00 in compensation for the fee paid to file this Application for Dispute Resolution. In the event the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia 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: September 16, 2014

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Residential Tenancy Branch

