



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNDC, OLC, ERP, RP, RR, FF

### Introduction

This hearing concerns an application by the tenants for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / an order instructing the landlords to comply with the Act, Regulation or tenancy agreement / an order instructing the landlords to make emergency repairs for health or safety reasons / an order instructing the landlords to make repairs to the unit, site or property / permission to reduce rent for repairs, services or facilities agreed upon but not provided / and recovery of the filing fee.

Both parties attended and gave affirmed testimony.

### Issue(s) to be Decided

Whether the tenants are entitled to any of the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the term of tenancy is from August 01, 2014 to August 01, 2015. Monthly rent of \$2,300.00 is due and payable in advance on the first day of each month, and a security deposit of \$1,150.00. A move-in condition inspection report was completed with the participation of both parties.

Since taking possession of the unit, the tenants have identified a range of miscellaneous concerns about its condition, only some of which were resolved to their satisfaction prior to the hearing. During the hearing, the parties undertook to at least partially resolve some of the remaining aspects of the dispute.

### Analysis

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

Section 32 of the Act addresses **Landlord and tenant obligations to repair and maintain**, in part:

32(1) A landlord must provide and maintain residential property in a state of decoration and repair that

(a) complies with the health, safety and housing standards required by law, and

(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

(5) A landlord's obligations under subsection (1)(a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

Based on the documentary evidence and testimony of the parties, the various aspects of the tenants' concerns and my related findings are set out below.

*\$50.15: steam cleaner rental*

Residential Tenancy Policy Guideline # 1 speaks to "Landlord & Tenant – Responsibility for Residential Premises." Within this Guideline the particular attention of the parties is drawn to the section addressing CARPETS.

While the landlords testified that they vacuumed the carpets prior to the time when the tenants took possession of the unit, they were unable to confirm whether the carpets had been steam cleaned or shampooed by the previous owners who had resided in the unit. In the result, I find that the tenants have established entitlement to compensation limited to **\$25.08**, or ½ the amount claimed.

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*\$123.20: paint for bedroom*

*\$44.35: paint for closets*

*\$44.35: paint for laundry room*

During the hearing tenant "PAK" withdrew these particular aspects of the original application.

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\$160.00: (8 hours x \$20.00 per hour) general unit cleaning

Section 37 of the Act addresses **Leaving the rental unit at the end of a tenancy**, in part:

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....

While I note that the unit was formerly occupied by the owners who resided in it prior to its purchase by the landlords, section 37 speaks broadly to the standards of cleanliness and wear and tear in a unit.

The landlords testified that they undertook to ensure that the unit was reasonably clean prior to the start of this tenancy. Further, I note there is no indication on the move-in condition inspection report that the unit required additional cleaning. In the result, I find that the tenants have failed to meet the burden of proving that the unit did not meet the standard of being “reasonably clean, and undamaged except for reasonable wear and tear” when this tenancy began, and this aspect of the application must be dismissed.

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**\$37.46:** *purchase & installation: downstairs shower curtain rod / upstairs hall closet rod*

It appears that the tenants proceeded with the above purchase(s) and installation on their own initiative and without prior discussion / consultation with the landlords. In the absence of any related documentation on the move-in condition inspection report, I find that this aspect of the application must be dismissed. In general, it can be helpful to first provide landlords with an opportunity to respond to concerns related to the need for repairs or perceived deficiencies prior to undertaking related tasks and incurring costs.

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**\$8.26:** *stoppers for garburator & upstairs bathroom; screws for front door*

During the hearing the landlords agreed to accept responsibility for this total cost.

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**\$92.50:** *toilet seat & paint*

During the hearing tenant “PAK” withdrew the claim for paint, and the landlords agreed to accept responsibility for the cost of replacing the toilet seat in the upstairs bathroom in the amount of **\$48.15**.

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**\$10.46:** *light cover & knobs*

During the hearing the landlords agreed to accept responsibility for this total cost.

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**\$50.00:** *filing fee*

As some aspects of the tenants' application were withdrawn, others resolved between the parties during the hearing, and still others dismissed, I find that the tenants have established entitlement limited to recovery of ½ of the filing fee, or **\$25.00**.

**Total Entitlement: \$116.95**

I order that the tenants recover the above entitlement by withholding this amount from the next regular payment of monthly rent.

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*Carpet replacement:*

Tenant "PAK" claims that carpet in the downstairs bedroom and the adjacent open area (estimated to be approximately 400 square feet in total) smells, and she suspects it is cat urine. However, those who claim they are aware of these smells appear to be limited to the tenants and family members. Further, there is no conclusive evidence that pets were formerly kept in the unit, and there is no specific documentation on the move-in condition inspection report concerning the carpets.

Residential Tenancy Policy Guideline # 40 speaks to "Useful Life of Building Elements," and provides that the useful life of carpet is 10 years. There is no conclusive evidence as to the age of the subject carpet.

In summary, I find there is insufficient evidence to support issuance of an order which instructs the landlords to replace the carpet. Nevertheless, the parties are encouraged to re-open talks between them in regard to attempting to resolve this particular concern in some manner which is mutually agreeable.

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*Mold in downstairs bedroom:*

I am unable to conclude that the condition of the downstairs bedroom fails in some manner to comply with the "health, safety and housing standards required by law." Accordingly, I find there is insufficient evidence to support issuance of an order which instructs the landlords in regard to the tenants' concern about mold.

However, the attention of the parties is drawn to information made available online by the Canada Mortgage and Housing Corporation ("CMHC") titled, "Fighting Mold – Tenant's Guide to Mold."

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Conclusion

The tenants are ordered to recover the entitlement of **\$116.95** by withholding that amount from the next regular payment of monthly rent.

The aspects of the application are variously either, withdrawn, resolved or 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: December 24, 2014

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Residential Tenancy Branch

