



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Remax Kelowna Property Management  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MND MNSD MNDC FF O

### Introduction

This hearing dealt with monetary applications by the landlord and the tenant. The landlord and the tenant participated in the teleconference hearing. The landlord withdrew the portion of their claim regarding strata fines, as the tenant had already paid the fines.

The parties were given full opportunity to give affirmed testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

### Preliminary Issues

At the outset of the hearing the landlord requested that the tenant's evidence be dismissed, on the basis that it contained documents that slandered the landlord. I denied the landlord's request but informed the parties that I would be making determinations about the evidence based on its relevance to the claims and what weight to give relevant evidence.

The landlord made a second request that the tenant's advocate be removed from the hearing. I denied the landlord's request and informed the parties that although the tenant is permitted to have an advocate or someone to assist them in the hearing, I would not tolerate any improper behavior by any party during the hearing.

### Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

Is the tenant entitled to monetary compensation as claimed?

### Background and Evidence

The tenancy began on December 1, 2013. Rent in the amount of \$2,500.00 was payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$1,250.00. On November 23, 2013 the landlord and the tenant carried out a move-in inspection and completed the condition inspection report.

On April 21, 2015 the tenants served the landlord with a letter that noted the clean-up they were carrying out prior to vacating, and gave the landlord their forwarding address in writing.

On April 28, 2015 the landlord and the tenant carried out a move-out inspection. The condition inspection report is signed by the landlord and the tenant to indicate that the inspection was completed. Every item in the move-out column of the report is checked with a check mark, but there are comments written beside some items. The comments appear to correspond to areas where the landlord noted damage for which the tenant is responsible, as follows: "patch & paint"; "fix door handle"; "remove stickers"; "clean hardwood floor/fix hardwood floor"; and "remove wax". There is no tenant signature in either section 1, to indicate that the tenant agreed with the landlord's assessment of the condition of the unit, or in section 2 to give the landlord written permission to keep any of the security deposit. In the margin a note reads "\$0 returned to tenant \$1250 sent to owner." A forwarding address for the tenant is written in section 5.

### *Landlord's Evidence*

The landlord stated that the tenants did damage to the rental unit, and claimed compensation as follows:

1. \$500.00 for painting and retouching

The landlord stated that there was quite a bit of damage to the walls in the den, and other areas required touch-up painting. The landlord submitted photographs of scuffs and marks on walls and two walls with decals attached; an invoice for \$231.53 for repairs, repainting and materials; and an invoice for \$337.51 for patching and painting, repairing a closet organizer, reinstalling the den door handle, restarting the water dispenser, repairing a closet door handle, and replacing a blown fuse in the microwave and burnt out light bulbs.

2. \$120.00 for hardwood floor cleaning and wax removal

The landlord stated that there was wax that had dripped onto the hardwood flooring and on a window ledge. The landlord submitted photographs showing some small areas of dripped wax and an invoice for \$84.00 for removing the wax.

3. \$200.00 to fix a broken door handle

The landlord did not provide a separate invoice for this work.

4. \$6,700.00 for replacing hardwood flooring

The landlord stated that the tenants did extensive damage to the hardwood floors. The landlord submitted photographs of scratched flooring and a quote for \$8,543.06 to replace hardwood flooring. The landlord stated that they claimed \$6,700.00 as a depreciated amount for the flooring. The landlord stated that the flooring was installed in 2010, and the owner told the landlord that the unit had not been used for two years prior to the tenant's occupation.

#### *Tenant's Evidence*

The tenant's response to the landlord's claim was as follows:

1. painting and retouching

The tenant submitted that most of the marks on the walls were normal wear and tear or existed before the tenancy began. The tenant thought that the decal in the bedroom was the only issue, but the landlord said not to worry because they were going to have to repaint anyway.

2. hardwood floor cleaning and wax removal

The tenant acknowledged that there was a little bit of candle wax that had dripped.

3. broken door handle

The tenant stated that the door handle fell off the first time they used it.

4. replacing hardwood flooring

The tenant submitted that the landlord's estimate fails to set out the square footage of flooring to be replaced. The tenant stated that the flooring was scratched at the beginning of the tenancy. The tenant stated that before their tenancy began there was another tenant there and the unit was fully furnished.

In regard to their own application, the tenant claimed recovery of the \$1,250.00 security deposit. The tenant submitted that all of the items in the unit were checked off, meaning they were "good," and the landlord would have to show a preponderance of evidence to the contrary to establish his claim. The tenant stated that the landlord filled in parts of the condition inspection report after the tenant signed it.

### Analysis

In regard to the move-out condition inspection report, I find as follows. All of the items in the rental unit received a check mark on both the move-in and move-out sections, and I find that the check marks do not indicate "good," but rather that each of the items was inspected. The tenant pointed to some comments written beside items on the move-in portion of the report, to show that there was pre-existing damage. I find that the comments written beside items in the move-out portion of the report, which correspond to the specific items listed in the lower portion of the report, are meant to indicate the condition of each item. The tenant did not provide sufficient evidence to establish that the landlord added all of those comments after the tenant signed the report.

In regard to the security deposit, I find that the tenant gave the landlord their forwarding address in writing on April 21, 2015 and the tenancy ended on April 28, 2015. The landlord made their application to keep the deposit on May 12, 2015, which is within the required time frame to make their application. Therefore, the security deposit is not doubled.

In regard to the landlord's claim I find as follows.

#### 1. painting and retouching

I find, upon reviewing the landlord's photos, that there appears to be damage that goes beyond normal wear and tear. I accept the landlord's evidence, supported by the condition inspection report, that there was greater damage at the end of the tenancy than at the beginning. However, the invoices do not reconcile with the landlord's claim of \$500.00 for painting and retouching. The landlord's first invoice totals \$231.53 for repairs, repainting and materials. The second invoice totals \$337.51 for patching and painting, repairing a closet organizer, reinstalling the den door handle, restarting the

water dispenser, repairing a closet door handle, and replacing a blown fuse in the microwave and burnt out light bulbs. The second invoice does not clarify which portions of the total represent which work done, and the landlord did not provide further evidence to clarify or break down that work. I therefore find that the landlord is entitled to a nominal award of \$200.00 for painting and retouching.

2. hardwood floor cleaning and wax removal

The landlord claimed \$120.00 for cleaning and removing wax, but the invoice for this work totals \$84.00. The invoice does not indicate the extent of work that was required for this task. However, the tenant did acknowledge spilling some wax. The photographs show only small drops of wax. I therefore find that the landlord is entitled to a nominal award of \$30.00 for cleaning and removing the wax.

3. broken door handle

The landlord claimed \$200.00 for repairing the broken door handle. The tenant stated that the handle fell off the first time they used it. If that was the case, the tenant had an obligation to report the damage to the landlord immediately, but they did not. The landlord did not provide evidence that broke down the specific parts and labour required to fix the door handle, and I therefore grant the landlord a nominal award of \$20.00 for the door handle.

4. replacing hardwood flooring

I accept the landlord's evidence that the tenant caused damage to the hardwood flooring during the tenancy. Some of the scratches on the flooring, as depicted in the landlord's evidence, appear to be fairly recent. However, the landlord did not provide any evidence to indicate that the tenant was to take particular care with the flooring, such as putting felt under furniture legs or only wearing soft-soled shoes. Additionally, the landlord did not provide evidence of the quality or quantity of the existing flooring or the replacement flooring. Nor did the landlord provide evidence that the quality of the flooring resulted in a depreciated value of the unit overall. I therefore dismiss this portion of the landlord's claim.

*Filing Fees*

As the landlord's application was partially successful, they are entitled to partial recovery of their filing fee in the amount of \$50.00.

As the tenant's application was not successful, they are not entitled to recovery of the filing fee for the cost of their application.

Conclusion

The landlord is entitled to \$300.00. I order the landlord to retain this amount from the security deposit of \$1,250.00 and I grant the tenant an order under section 67 for the balance due of \$950.00. This order may be 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: November 6, 2015

---

Residential Tenancy Branch

