



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

OPB, MND, MNSD, FF

### Introduction

On November 13, 2015 the Landlord filed an Application for Dispute Resolution, in which the Landlord applied for an Order of Possession, a monetary Order for damage, to retain all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution. At the outset of the hearing the Landlord withdrew the application for an Order of Possession, as she did not intend to apply for an Order of Possession.

The Landlord stated that sometime in November of 2015 the Application for Dispute Resolution, the Notice of Hearing, and documents submitted to the Residential Tenancy Branch on November 15, 2015 were personally served to each Tenant. The Tenants acknowledged receipt of these documents and they were accepted as evidence for these proceedings.

On May 27, 2016 the Landlord submitted an additional 2 pages of evidence and a CD to the Residential Tenancy Branch. The Landlord stated that this evidence was personally served to the Tenants on May 26, 2016. The Tenants acknowledged receipt of this evidence and it was accepted as evidence for these proceedings.

On May 04, 2016, 2016 the Tenants submitted 11 pages of evidence and 4 photographs to the Residential Tenancy Branch. The Tenant stated that this evidence was personally served to the Landlord on May 04, 2016. The Landlord acknowledged receipt of this evidence and it was accepted as evidence for these proceedings.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

### Issue(s) to be Decided

Is the Landlord entitled to compensation for cleaning the carpet and replacing a lock on the shed?

Is the Landlord entitled to retain all or part of the security deposit?

Background and Evidence

The Landlord and the Tenants agree that:

- the parties entered into a written tenancy agreement for a tenancy that began on November 01, 2014;
- Tenant #1 lived in the rental unit prior to Tenant #2 moving into the unit;
- Tenant #1 lived in the rental unit prior to the parties signing the new tenancy agreement for November 01, 2014;
- the new tenancy agreement required to Tenants to pay monthly rent of \$1,500.00 by the first day of each month;
- the Tenants paid a security deposit of \$750.00;
- the Landlord completed a condition inspection report on October 30, 2014, a copy of which was submitted in evidence;
- the tenancy ended on October 31, 2015;
- the Tenants provided the Landlord with a forwarding address, in writing, a few days after the tenancy ended;
- on October 31, 2015 the Landlord completed a one page documents which both parties refer to as a condition inspection report, a copy of which was submitted in evidence;
- on the report completed on October 31, 2015 the Landlord noted that the carpet on the stairs on the lower level look dirty; and
- on the report completed on October 31, 2015 the Landlord noted that the carpet is still wet so she is unable to determine if there are stains.

The Landlord is seeking compensation, in the amount of \$99.75, for cleaning the carpet at the end of the tenancy. In support of this claim the Landlord stated that:

- the Tenants cleaned the carpet at the end of the tenancy with a rented carpet cleaner;
- the cleaning done by the Tenants was not sufficient;
- after the carpet had been cleaned by the Tenants she pressed a paper towel against the carpet and it came away dirty;
- there was a stain in one of the bedrooms, which she contends can be seen in a photograph submitted by the Tenants;
- there is a faint pink stain on the stairs, which she contends can be seen in a photograph submitted by the Tenants;
- she paid \$210.00 to clean the carpets, which was the cost of cleaning the carpets in the entire unit;
- she is only seeking \$99.75 for cleaning the stain in the bedroom and on the stairs; the estimate for \$99.75 she submitted was for cleaning the stain in the bedroom and the stairs; and

- she declined the Tenants' offer to clean the carpets a second time as she did not believe a rented carpet cleaner would clean the carpets properly and she wanted them professionally cleaned.

In response to the claim for cleaning the carpet Tenant #1 stated that:

- they cleaned the carpet at the end of the tenancy with a rented carpet cleaner;
- when the Landlord told the Tenants she was not satisfied with the condition of the carpet at the end of the tenancy they offered to clean the carpet again with a rented carpet cleaner;
- she declined the offer to have the carpet cleaned a second time;
- the photographs of the carpets submitted by the Tenants were taken on November 03, 2015, November 04, 2015, or November 05, 2015 after the carpet had dried; and
- the photographs accurately reflect the condition of the carpet at the end of the tenancy.

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The Landlord is seeking compensation, in the amount of \$60.00, for cleaning the bathroom and the kitchen at the end of the tenancy. In support of this claim the Landlord stated that:

- after the rental unit was vacated she had to clean the cupboards, inside and out;
- after the rental unit was vacated she had to clean the bathtub;
- after the rental unit was vacated she had to clean the oven;
- these areas were not noted on the report she completed at the end of the tenancy as she simply did not notice them;
- she moved into the rental unit on October 31, 2015;
- the digital images of the areas needed cleaning, which were submitted in evidence, were taken in early November of 2015; and
- she spent approximately 3.5 hours cleaning after she moved into the rental unit.

In response to the claim for cleaning Tenant #1 stated that:

- the cupboards, oven, and bathtub were clean at the end of the tenancy;
- the report completed at the end of the tenancy does not declare that the cupboards, oven, and bathtub required cleaning; and
- the dirt shown in the digital images submitted by the Landlord must have accumulated sometime between the end of the tenancy and the date the images were recorded in November of 2015.

The Landlord is seeking compensation, in the amount of \$40.03, for replacing a lock on the shed. In support of this claim the Landlord stated that:

- Tenant #2 returned the keys to the shed on October 31, 2015;
- she replaced the locking door knob on the shed in early November of 2015, as Tenant #1 had not returned his key to the shed; and
- Tenant #1 returned the key to the shed on, or about, November 14, 2015, after the lock had been replaced.

In response to the claim for replacing the lock Tenant #1 stated that he did not return his key to the shed until after he received the Landlord's Application for Dispute Resolution.

The Landlord submitted a receipt to show she paid \$35.74 for a door knob, plus tax.

### Analysis

When making a claim for damages under a tenancy agreement or the *Act*, the party making the claim has the burden of proving their claim. Proving a claim in damages includes establishing that damage or loss occurred; establishing that the damage or loss was the result of a breach of the tenancy agreement or *Act*; establishing the amount of the loss or damage; and establishing that the party claiming damages took reasonable steps to mitigate their loss.

Section 37(2)(a) of the *Act* requires tenants to leave a rental unit undamaged, except for reasonable wear and tear, and in reasonably clean condition at the end of a tenancy.

On the basis of the photographs of the carpet and the digital image of the paper towel that was used to soak up dirty water that were submitted in evidence I find that the carpets in the rental unit were not left in reasonably clean condition at the end of the tenancy. Although the Tenants made an effort to clean the carpets themselves, I find that a professional steam cleaning was required. I therefore grant the Landlord's claim of \$99.75 for cleaning the carpet.

I find that the Landlord submitted insufficient evidence to show that the bathtub and the oven required cleaning at the end of the tenancy and I therefore dismiss the Landlord's claim for cleaning these areas.

Section 21 of the *Residential Tenancy Regulation* stipulates that a condition inspection report completed that is signed by both parties is evidence of the state of repair and condition of the rental unit or residential property on the date of the inspection, unless either the landlord or the tenant has a preponderance of evidence to the contrary. I find that the digital images submitted by the evidence are not sufficient to convince me that the bathtub and oven required cleaning at the end of the tenancy and I therefore must rely on the report that indicates those areas did not require cleaning.

In determining that there is insufficient evidence to show the bathtub and the oven required cleaning at the end of the tenancy I was influenced by the Tenants' submission that the dirt must have accumulated sometime between the end of the tenancy and the date the images were recorded in November of 2015. In my view the digital images of the dirt on the oven and the bathtub could have accumulated between the time the tenancy ended and the time the images were recorded, as the Landlord was living in the rental unit.

On the basis of the digital images submitted in evidence, I find that the interior of the cupboards were not left in reasonably clean condition at the end of the tenancy. Although there is no mention of the need to clean the cupboards on the report that was completed at the end of the tenancy, I find that the digital images clearly establish that cleaning was required.

In determining that the interior of the cupboards required cleaning at the end of the tenancy I have placed no weight on the Tenants' submission that the dirt must have accumulated sometime between the end of the tenancy and the date the images were recorded in November of 2015. In my view the digital images depict dirt that has accumulated over an extended period of time and are entirely inconsistent with cupboards that have been recently cleaned.

In the absence of evidence to the contrary, I accept the Landlords' testimony that she spent 3.5 hours cleaning the bathtub, oven, and cupboards. As I have found that she is only entitled to compensation for cleaning the cupboards, I find it reasonable to conclude that she is entitled to 2 hours of cleaning. On the basis of the amount of cleaning demonstrated by the digital images, I find it reasonable to conclude that she would have spent 2 hours cleaning the cupboards and the remaining time cleaning the oven and bathtub, which appeared to require less cleaning.

I grant the Landlord compensation of \$40.00 for the time she spent cleaning the cupboards. This is based on an hourly wage of \$20.00, which I find to be reasonable for labour of this nature.

Section 37(2)(b) of the *Act* stipulates that at the end of the tenancy tenants must return 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. On the basis of the undisputed evidence I find that Tenant #1 did not comply with section 37(2)(b) of the *Act* because he did not return his key to the shed until sometime after November 13, 2015, which is when the Application for Dispute Resolution. I find that the Landlord acted reasonably when she changed the lock on the shed prior to November 13, 2015 and that she is entitled to recover the cost of changing the lock.

The receipt submitted in evidence shows the Landlord paid \$35.74 plus tax for the replacement locking doorknob, which is \$38.82.

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

### Conclusion

The Landlord has established a monetary claim, in the amount of \$228.57, which is comprised of \$99.75 for cleaning the carpet, \$40.00 for cleaning the cupboards, \$38.82 for replacing a lock, and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I

authorize the Landlord to keep \$228.57 from the Tenants security deposit in full satisfaction of this monetary claim and I find that she must return the remaining \$521.43 of the deposit

Based on these determinations I grant the Tenants a monetary Order for the amount of \$521.43. In the event the Landlord does not comply with this Order, it may be served on the Landlord, 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 *Act*.

Dated: June 13, 2016

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Residential Tenancy Branch