



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BC HOUSING MANAGEMENT COMMISSION  
and [tenant name suppressed to protect privacy]

## **DECISION**

Code MNR, MND, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for unpaid rent, for damages to the unit and to recover the filing fee from the tenant.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### Issues to be Decided

Is the landlord entitled to a monetary order for unpaid rent?  
Is the landlord entitled to monetary compensation for damages?

### Background and Evidence

The tenancy began on March 1, 2012. Rent is determined by BC Housing and the tenant's portion was the amount of \$554.00, payable on the first of each month. No security deposit was paid. The tenancy ended on February 28, 2015.

The parties agreed a move-in condition inspection was completed, and that the tenant did not participate in the move-out condition inspection. The report was completed in their absents.

The landlord claims as follows:

a.	Unpaid rent for February 2015	\$ 208.00
b.	Cleaning	\$ 260.00
c.	Painting	\$ 918.75
d.	Floor replacement	\$ 242.86
e.	Key and laundry card	\$ 30.00
f.	Door replacement	\$ 118.00
g.	Filing fee	\$ 50.00
	<b>Total claimed</b>	<b>\$1,827.61</b>

### Rent

At the outset of the hearing the tenant acknowledged that rent was owed for February 2015.

### Cleaning

At the outset of the hearing the tenant agreed that they are responsible for the cleaning costs.

### Painting

The landlord's agent testified that when the tenant moved into the rental unit it was freshly painted. The agent stated at the end of the tenancy the walls were covered in crayon or markers and stickers.

The landlord's agent testified as a result the walls needed to be repainted, which they paid the amount of \$3,500.00. The agent stated that they do not seek to recover the full cost of painting as they have applied a depreciated value based on their policy for a family with children, which they give paint a useful life span of 48 months, which is a shorter lifespan than the Residential Tenancy Branch Policy Guidelines. The agent stated that they determined that the tenant is responsible for 12 months at the rate of \$72.92 per month. The landlord seeks to recover the depreciate value for painting in the amount of \$918.75. Filed in evidence are photographs of the walls. Filed in evidence is a receipt for painting.

The tenant testified that their children did colour on the walls. The tenant stated that is a normal thing that children will do. The tenant stated that they attempted to remove the marker as it was to be a washable product; however, it seem to have penetrated the paint and they were unable to remove the marker from the walls.

### Floor replacement

The landlord's agent testified that the carpets were new at the start of the tenancy and they were left heavily soiled at the end of the tenancy. The agent stated that they attempted to have the carpets cleaned; however, they were unable to get them clean.

The landlord's agent testified as a result they had to replace the flooring. The agent stated their office made a calculation error in the useful life span as the tenant should have been responsible for 108 months, rather than the 12 months claimed in their application, as it appears they accidentally reversed the numbers.

The tenant testified that they agreed that the carpets were heavily soiled in the high traffic areas. The tenant stated that there was no damage, such as burns. The tenant stated that the landlord has provided no evidence that the carpets required to be replaced after they had them cleaned.

### Key and laundry card

The landlord's agent testified that that the tenant failed to return the key and laundry card at the end of the tenancy. The landlord seeks to recover the cost of \$30.00.

The tenant testified that they left the key and laundry card in the refrigerator. The tenant stated that they informed the landlord that they would leave them there.

### Replace door

The landlord's agent testified that the bathroom door was damaged and replaced during the tenancy. The agent had no further details.

The tenant testified that they do not recall causing any damage to the bathroom door.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

### Rent

In this case, the tenant acknowledged that they did not pay all rent owed for February 2015, I find the tenant breached the Act, and the landlord suffered a loss. Therefore, I find the landlord is entitled to recover unpaid rent in the amount of **\$208.00**.

### Damages

Under section 37 of the Act, the tenant is required to return the rental unit to the landlord reasonably clean and undamaged, except for reasonable wear and tear. Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

### Cleaning

At the outset of the hearing the tenant acknowledged that they are responsible for the cleaning costs. Therefore, I find the landlord is entitled to recover cleaning costs in the amount of **\$260.00**.

### Painting

In this case, the tenant admitted that their children coloured on the walls. That is not normal wear and tear, rather the actions of the tenant is neglectful by allowing their children to colour on the walls. I find the tenant has breached the Act and the landlord suffered a loss. Therefore, I find the landlord is entitled to recover the depreciated value of the paint in the amount of **\$918.75**.

### Replace flooring

In this case, both parties agreed the carpets were left heavily soiled at the end of the tenancy. The evidence of the landlord was that even after the carpets were cleaned they were still heavily soiled and needed to be replaced. While the landlord has not provided any documentary evidence such as photographs, to show the condition of the carpets after they were cleaned. I find the amount the landlord claimed is reasonable since this amount to clean the carpets would likely be the same. Under the Act, the tenant is responsible to leave the carpets cleaned at the end of the tenancy. Therefore, I find the landlord is entitled to recover the amount of **\$242.86**.

Key and laundry card

In this case, the evidence of the tenant was that they left the key and laundry card in the refrigerator; however, these items were not found by the landlord. It is the tenant's responsibility to ensure all keys are directly returned to the landlord. I find the tenant has breached the Act and the landlord suffered a loss. Therefore, I find the landlord is entitled to recover the cost of the key and laundry card in the amount of **\$30.00**.

Replace door

In this case, I find the landlord has failed to provide sufficient evidence to support their claim that the tenant was responsible for the cost of a broken door. Therefore, I dismiss this portion of their claim.

I find that the landlord has established a total monetary claim of **\$1,709.61** comprised of the above described amounts and the \$50.00 fee paid for this application.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The landlord is granted a monetary order for unpaid rent and damages.

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: August 10, 2016

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Residential Tenancy Branch