



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding COUNTRY SENIORS COMMUNITY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDL-S, FFL

### Introduction

This decision pertains to the Landlord's application for dispute resolution made on May 23, 2018, under the *Residential Tenancy Act* (the "Act"). The Landlord seeks a monetary order for compensation for carpet replacement costs, for cleaning costs, and for recovery of the filing fee.

The Landlord's agent (the "Landlord") attended the hearing before me and was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The Tenant did not attend.

The Landlord testified that a representative of the Landlord served the Notice of Dispute Resolution Package (the "Notice") on the Tenant by attending, on May 25, 2018, to the Tenant's residential address as provided to the Landlord in a letter dated October 3, 2017. The Tenant was not home, so the representative attended to an office that manages the community housing, in which the Tenant resides. The representative gave the Notice to the front desk assistant (i.e., a receptionist) and requested that the assistant give the Notice to the Tenant. The assistant said yes. The Landlord also testified that the address listed in recent correspondence from the Tenant concerning another application for dispute resolution with the Residential Tenancy Branch is the address of the office at which the Landlord's representative attended.

Pursuant to section 89(1)(e) of the Act, I am satisfied and do find that, based on the evidence, the Tenant was sufficiently served for the purposes of the Act on May 25, 2018, pursuant to section 71(2)(b).

While I have reviewed all oral and documentary evidence submitted, only relevant evidence pertaining to the issues of this application is considered in my decision.

### Issues to be Decided

1. Is the Landlord entitled to compensation for the cost of replacing a carpet?
2. Is the Landlord entitled to compensation for the cost of cleaning?
3. Is the Landlord entitled to compensation for the cost of the filing fee?

### Background and Evidence

The Landlord testified that the Tenant signed a written tenancy agreement on April 5, 2012, for a May 2, 2012, move-in date, and paid a security deposit of \$475.00.

The Landlord and the Tenant conducted a move-in inspection on May 2, 2012, and the condition inspection report indicates that while there was a “pull in carpet,” the carpets were not yet 3 years old. The pull in the carpet was repaired by a carpet repair person.

The Landlord received the Tenant’s end of tenancy notice in late August 2017. The Landlord contacted the Tenant on September 27, 2017, with regards to setting up an inspection of the rental unit. The Tenant said that she and her husband were moving out on September 30, and that the movers were coming at 2:00 p.m. The Landlord let the Tenant know that she needed to vacate the rental unit by 1:00 p.m., as per the Act. The Landlord went over to the rental unit on three separate occasions to see if the Tenant had finished moving out and in order to conduct an inspection. Finally, the Landlord simply told the Tenant, “please call me when you’re done.” The Tenant did not call her back.

At around 9:30 p.m., the Tenant attended to the Landlord’s office and said, “we’re all out, finished, keys are on the counter,” and promptly left, without participating in an inspection. The Landlord took photographs (submitted into evidence) of the rental unit.

The Landlord testified that the carpets had likely not been cleaned in 5 years. The condition inspection report reflects that the entire carpet within the rental unit needed cleaning. A professional carpet cleaner assessed the cleanability of the carpets, and advised the Landlord that there was no way any amount of cleaning would remove the dirt. The Landlord replaced the carpets at a cost of \$1,818.39. (The Landlord submitted an invoice reflecting this cost into evidence.)

The Landlord also testified that the rental unit was very dirty and needed to be professionally cleaned. The Landlord hired a cleaner, who took 14½ hours to clean the rental unit; a copy of the cleaner’s itemized invoice was submitted into evidence. The

inspection condition report also stated that the rental unit needed to be cleaned.

Submitted into evidence were several photos of the rental unit. Unfortunately, the quality of the black and white photographs submitted were not particularly helpful in assessing the carpet. However, they were helpful in assessing some of the cleaning that needed to be done in the rental unit. The Landlord acknowledged that the photographs were copies of copies, and that some were of little value.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

The Landlord seeks a monetary order for compensation for carpet replacement and for cleaning costs of the rental unit. The purpose of compensation is to put the person who suffered the damage or loss into the same position as if the damage or loss had never occurred. The party claiming compensation must provide evidence establishing that they are entitled to compensation.

In determining whether compensation is due, I must determine whether:

1. a party to the tenancy agreement failed to comply with the Act, regulation, or tenancy agreement;
2. loss or damage resulted from their non-compliance;
3. the party who suffered the damage or loss can prove the amount or value of the damage or loss; and,
4. the party who suffered the damage or loss has acted reasonably in minimizing their damage or loss.

The Tenant was required under section 37(2)(a) of the Act to “leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.” Based on the Landlord’s undisputed testimony and some of the photographs submitted into evidence, this does not appear to have happened.

The Landlord testified that but for the Tenant’s non-compliance of their obligation under section 37(2)(a), they would not have suffered damage to the carpet, nor for the loss

related to cleaning expenses.

The Landlord further testified that the amount of the damage to the carpet amounts to the replacement cost of \$1,818.39, and the amount of loss toward cleaning expenses was \$290.00.

Now I must turn to the fourth part of the test, namely, did the Landlord act reasonably in minimizing their damage or loss? I find that they did. They asked the Tenant three times to contact them in order to conduct an inspection. Had the Tenant attended for an inspection, the Tenant may have had the opportunity to arrange to have the carpets professional cleaned. They attended to the office to tell the Landlord that they were leaving, and promptly left. The Landlord brought in a professional carpet cleaner to assess the damage, and the carpet cleaner said that the carpets were beyond cleaning and would have to be replaced.

Taking into consideration all of the undisputed oral and documentary evidence presented before me, and applying the law to the facts, I find that the Landlord has met the onus of proving their claim for compensation for the carpet replacement cost, and, for the professional cleaning cost.

Next, I must factor in the useful life in years of a carpet in calculating the amount that the Landlord is entitled to. As per *Residential Tenancy Policy Guideline 40. Useful Life of Building Elements*, page 5, carpets have a useful life of 10 years. The carpet in the rental unit was less than 3 years old when the Tenant moved in. Thus, it was approximately 8 years old when the Tenant moved out. As such, there was approximately 2 years left in useful life of the carpet, and I therefore reduce the amount claimed by 80%, to \$363.68.

The Tenant did not make herself available at any point that the Landlord proposed meeting, or attempted to arrange meeting, for a move out inspection. The Landlord attended to the rental unit on three separate occasions on September 27, 2017, to conduct an inspection. The Tenant did not propose any alternative time to schedule a condition inspection. Indeed, they let the Landlord know that they were leaving, and left. While the Landlord had attempted thrice to meet in order to do an inspection, the Tenant did not, pursuant to section 17(2) of the *Residential Tenancy Regulation*, propose an alternative time.

Given the above, pursuant to section 35 of the Act, I find that the Tenant lost her right to the return of her security deposit by not participating, or making herself available, for

any of the opportunities presented to her for an inspection. As such, the Landlord is entitled to claim against the security deposit.

As the Landlord was successful in their application I grant them a monetary award for \$100.00 for recovery of the filing fee.

For the reasons set out above, I find that the Landlord is entitled to a monetary claim for damages, and for the filing fee, in the amount of \$753.68. Further, I order that the security deposit held (\$475.00) be applied to the award granted to the Landlord, pursuant to section 72 of the Act.

### Conclusion

The Landlord is granted a monetary order in the amount of \$278.68. This order must be served on the Tenant and may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: July 17, 2018

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Residential Tenancy Branch