



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDCL-S, MNDL-S, MNRL-S, FFL

### Introduction

This decision pertains to the landlord's application for dispute resolution made on December 15, 2017, under the *Residential Tenancy Act* (the "Act"). The landlord seeks a monetary order for unpaid rent, for compensation related to repairing the rental unit, and for recovery of the filing fee.

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 he served the Notice of Dispute Resolution Proceeding package on the tenant by Canada Post registered mail on June 12, 2018. The landlord provided a registered mail tracking number. The Canada Post website indicated that the package was signed for and picked up by the tenant on July 5, 2018. I find that the landlord served the tenant in compliance with section 89 of the Act.

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 a monetary order for unpaid rent?
2. Is the landlord entitled to a monetary order for compensation related to repairing the rental unit?
3. Is the landlord entitled to a monetary order for recovery of the filing fee?
4. Is the landlord entitled to retain the tenant's security deposit in partial satisfaction of any successful claim?

### Background and Evidence

The landlord testified that the tenancy began on February 1, 2012, and ended on December 1, 2017. Monthly rent was initially \$950.00, due on the first of the month, and then increased to \$985.00. The tenant paid a security deposit of \$475.00. A copy of the tenancy agreement was submitted into evidence.

The tenant gave notice and moved out on December 1, 2017, but paid only partial rent for November 2017, and did not pay rent for December 2017. The landlord claims compensation in the amount of \$485.00 for unpaid rent for November and \$600.00 for unpaid rent for December, for a total of \$1,085.00.

The landlord and tenant conducted a move-in inspection and completed a report. The landlord provided two opportunities for a move-out inspection, neither of which the tenant attended. Submitted into evidence was a copy of the move-in inspection report and dozens of photographs depicting the condition of the rental unit and of the outside yard, at the end of the tenancy. The photographs depicted extensive damage to the yard, to the carpets, general uncleanliness, and a lesser amount of damage to the walls.

The landlord also claimed for various damages, including a cost of replacing the carpet. However, he noted that he did not end up replacing the carpet and as such declines to pursue that particular damage. However, he did testify that the rental unit required a full repainting (supported by the photographs) and part of the drywall needed to be removed and disposed of. There were additional costs related to repairing the rental unit, but the landlord declined to pursue those.

The landlord testified regarding, and claimed for the following costs related to painting all of the rental unit's walls and cleaning the rental unit. The rental unit is approximately 1000 sq. ft. I provide a summary of the claimed amounts, below:

Claim	# Hours	\$/hr	Total
Cleaning the walls	28	\$20.00	\$560.00
Painting the walls	2-3 days	\$20.00	Not provided
Cleaning the yard	70 hours	\$20.00	\$1,400.00
Drywall disposal cost			\$7.00

The landlord did not submit any receipts into evidence except for the drywall disposal fee. He testified that instead of hiring someone to paint the rental unit, he ended up doing it himself. Though he did not provide a specific number of hours that it took him to paint the rental unit, he estimates that it took him "two to three days."

### Analysis

The landlord seeks a monetary order for unpaid rent and for compensation related to repairing 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. (See *Residential Tenancy Policy Guideline 16 – Compensation for Damage or Loss.*). 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.

Pursuant to subsection 37(2) of the Act, when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. The landlord's oral and photographic documentary evidence clearly establishes that the tenant did *not* leave the rental reasonably clean. Further, the tenant did not leave the rental unit undamaged in a manner that would be attributable to reasonable wear and tear. I find that the tenant has failed to comply with the Act, and that the damage claimed by the landlord resulted from the tenant's non-compliance.

The landlord claims that he spent a significant amount of time cleaning and painting the rental unit. I find that the amounts claimed for are reasonable, as is the dollar per hour rate. I accept that, if the rental unit was painted in three days that the landlord is entitled to a claim of at least \$480.00 for his time (8 hours a day x 3 x \$20/hr). I further accept that the yard cleanup—of which the damage to the yard and property surrounding the rental unit was extensive—of 70 hours is a reasonable amount. I also accept that he has proven the amount of the loss related to the drywall disposal fee. Finally, I accept that the unpaid rent is in the amount of \$1,085.00.

I find that the landlord has met his duty to minimize losses by doing much of the repairs and work himself, and undertaking the work within weeks of the tenancy ending.

Taking into consideration all the oral and documentary evidence, including the unchallenged testimony of the landlord, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving his claim for unpaid rent and for compensation related to repairing the rental unit.

I grant the landlord a monetary award for recovery of the filing fee.

Pursuant to section 67 of the Act, I grant the landlord a monetary order of \$3,157.00, calculated as follows, and order that he retain the tenant's security deposit in partial satisfaction of the claim.

CLAIM	AMOUNT
Unpaid rent	\$1,085.00
Cleaning wall (labour)	560.00
Cleaning yard (labour)	1,400.00
Painting walls (labour)	480.00
Drywall disposal cost	7.00
Filing fee	\$100.00
<i>LESS</i> security deposit	(\$475.00)
Total:	\$3,157.00

### Conclusion

The landlord is granted a monetary order in the amount of \$3,157.00. 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 *Residential Tenancy Act*.

Dated: July 30, 2018

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Residential Tenancy Branch