



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

MNDL-S, FFL

### **Introduction**

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for damage, to keep all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

The Agent for the Landlord stated that on March 05, 2018 the Application for Dispute Resolution and the Notice of Hearing were sent to the Tenant, via registered mail, at the service address noted on the Application. The Agent for the Landlord cited a tracking number that corroborates this statement. The Agent for the Landlord stated that the Tenant provided the service address, via telephone, on March 01, 2018. On the basis of this evidence and the absence of evidence to the contrary, I find that these documents have been served to the Tenant in accordance with section 89 of the *Residential Tenancy Act (Act)*, and the hearing proceeded in the absence of the Tenant.

On March 27, 2018 the Landlord submitted 13 pages of evidence and 89 photographs to the Residential Tenancy Branch. The Agent for the Landlord stated that this evidence was served to the Tenant, via registered mail, on March 06, 2018. The Landlord submitted a Canada Post receipt that corroborates this testimony. On the basis of this testimony and the absence of evidence to the contrary, I find that this evidence was served to the Tenant in accordance with section 88 of the *Act*, and I accept it as evidence for these proceedings.

On August 01, 2018 the Landlord submitted 15 pages of evidence and an Amendment to the Application for Dispute Resolution. The Agent for the Landlord stated that these documents were served to the Tenant, via registered mail, on August 01, 2018. The

Agent for the Landlord cited a tracking number that corroborates this statement. On the basis of this evidence and the absence of evidence to the contrary, I find that these documents have been served to the Tenant in accordance with sections 88 and 89 of the *Act*; the amendments were accepted; and the evidence was accepted as evidence for these proceedings.

### Issue(s) to be Decided

Is the Landlord entitled to compensation for damage to the rental unit and to keep all or part of the security deposit?

### Background and Evidence

The Agent for the Landlord and the Tenant stated that:

- the tenancy began on February 14, 2017;
- the tenancy ended on February 28, 2018;
- the Tenant paid a security deposit of \$399.00; and
- the Tenant paid a pet damage deposit of \$550.00.

In the Amendment to the Application for Dispute Resolution the Landlord claimed compensation of \$1,164.80 for cleaning the rental unit. At the hearing the Agent for the Landlord stated that the Landlord is actually seeking compensation of \$1,092.00t. The Landlord submitted photographs, which the Agent for the Landlord stated were taken at the end of the tenancy, which show the rental unit required cleaning. The Landlord submitted an invoice to show that the Landlord was charged \$1,040.00 plus 5% GST for cleaning.

In the Amendment to the Application for Dispute Resolution the Landlord claimed compensation of \$491.74 for repairing a variety of items that are listed on page 7 of the Landlord's evidence package. The Agent for the Landlord stated that these items were damaged during the tenancy. The Landlord is seeking compensation for the 25.25 hours an employee spent repairing these items, who earns \$19.475 per hour.

In the Amendment to the Application for Dispute Resolution the Landlord claimed compensation of \$403.97 for repairing flooring that was damaged by the Tenant's dog. The Landlord is seeking to recover the cost of the 7 boxes of flooring used for the repair. The Landlord submitted an invoice that shows the Landlord paid \$57.71 per box. The Agent for the Landlord estimates that the flooring was approximately 4 years old at the end of the tenancy.

At the hearing the Agent for the Landlord stated that the Landlord is not seeking to recover the \$25.00 administration fee or the claim of GST that was mentioned in the initial Application for Dispute Resolution.

### 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.

On the basis of the undisputed evidence I find that the Tenant failed to comply with section 37(2) of the *Act* when the Tenant failed to leave the rental unit in reasonably clean condition at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for the cost of cleaning the rental unit, which was \$1,092.00.

On the basis of the undisputed evidence I find that the Tenant failed to comply with section 37(2) of the *Act* when the Tenant failed to repair damage that occurred during the tenancy. I therefore find that the Landlord is entitled to compensation for the time an employee spent repairing the items listed on page 7 of the Landlord's evidence package, in the amount of \$491.74.

On the basis of the undisputed evidence I find that the Tenant failed to comply with section 37(2) of the *Act* when the Tenant failed to repair the flooring that was damaged by his dog and I find that the Landlord is entitled to compensation for replacing that flooring.

Claims for compensation related to damage to the rental unit are meant to compensate the injured party for their actual loss. In the case of fixtures in a rental unit, a claim for damage and loss is based on the depreciated value of the fixture and not based on the replacement cost. This is to reflect the useful life of fixtures, such as carpets and countertops, which are depreciating all the time through normal wear and tear.

The Residential Tenancy Policy Guidelines show that the life expectancy of wood flooring is 20 years. The evidence shows that the damaged floor was approximately 4 years old at the end of the tenancy and had, therefore, depreciated by twenty percent. I

therefore find that the Landlord is entitled to eight percent of the cost of replacing the floor, which in these circumstances is \$323.18.

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

### Conclusion

The Landlord has established a monetary claim, in the amount of \$2,006.92, which includes \$1,906.92 in damages and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to retain the Tenant's security deposit/pet damage deposit of \$949.00 in partial satisfaction of this monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance \$1,057.92. In the event the Tenant does not voluntarily comply with this Order, it may be served on the Tenant, 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: September 25, 2018

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Residential Tenancy Branch