



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding HOLLYBURN ESTATES LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

### **Dispute Codes:**

MNDL-S, MNDCL=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 money owed or compensation for damage or loss, 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 16, 2018 the Application for Dispute Resolution, the Notice of Hearing, and evidence the Landlord submitted with the Application were sent to each Tenant, via registered mail, at the service address noted on the Application. The Agent for the Landlord cited two Canada Post tracking numbers that corroborate this statement. The Agent for the Landlord stated that the Tenants provided the Landlord with the service address at the end of the tenancy. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however neither Tenant appeared at the hearing.

As the aforementioned documents have been properly served to the Tenants, the hearing proceeded in their absence.

On September 11, 2018 the Landlord submitted 14 pages of evidence to the Residential Tenancy Branch. The Agent for the Landlord stated that this evidence was served to the Tenants, via registered mail, on September 11, 2018. The Agent for the Landlord cited two Canada Post tracking numbers that corroborate this statement. In the absence of evidence to the contrary I find that these documents have been served in

accordance with section 88 of the *Act* and it was accepted as evidence for these proceedings.

### Issue(s) to be Decided

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

### Background and Evidence

The Agent for the Landlord stated that:

- the tenancy began on August 01, 2013;
- the tenancy ended on February 28, 2018;
- the Tenants paid a security deposit of \$765.00; and
- the Tenants provided a forwarding address, in writing, when the condition inspection report was completed on February 28, 2017.

The Landlord is seeking compensation, in the amount of \$143.85, for cleaning the drapes in the rental unit. The Agent for the Landlord stated that the blinds were clean at the start of the tenancy and were dirty at the end of the tenancy. The Landlord submitted an invoice to show that the Landlord incurred this expense.

The Landlord is seeking compensation, in the amount of \$307.52, for replacing a stove in the rental unit. The Agent for the Landlord stated that the Tenant's daughter told her the original stove had been damaged in a fire and that the Tenants replaced the stove sometime during the tenancy. The Agent for the Landlord stated that the Landlord does not wish to leave the stove the Tenant's purchased in the rental unit, as it is not consistent with the other appliances in the residential complex. The Agent for the Landlord stated that the original stove was purchased in July of 2011. The Landlord submitted a receipt to show that the Landlord paid \$494.03 to purchase a new stove.

The Landlord is seeking compensation, in the amount of \$676.37, for replacing the patio door. The Agent for the Landlord stated that the Tenants broke the glass in the door when they were attempting to repair the door. The Agent for the Landlord stated that she thinks the building was built in the eighties and there is no record of this door being replaced. The Landlord submitted an invoice to show that the Landlord paid \$676.37 to replace the door.

The Landlord is seeking compensation, in the amount of \$21.00, for replacing two parking "hangers". The Agent for the Landlord stated that the "hangers" are parking

passes that hang over the review mirror and that the Landlord charged \$10.50 when the pass is not returned. The Controller stated that she thinks it costs \$8.00 or \$9.00 to replace each “hanger”.

The Landlord is seeking compensation, in the amount of \$2.10, for costs of mailing hearing documents to the Tenants.

At the hearing the Landlord withdrew the application to recover hydro costs.

### 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) of the *Act* stipulates that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and give the landlord 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 the Tenants failed to comply with section 37(2) of the *Act* when the Tenants failed to leave the blinds in 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 blinds, which was \$143.85.

On the basis of the undisputed evidence I find that the Tenants failed to comply with section 37(2) of the *Act* when the Tenants damaged the stove and replaced it with a stove that did not meet the approval of the Landlord.

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 a stove is fifteen years. The evidence shows that the stove was new in July of 2011 and would, therefore, have been 6.6 years old at the end of the tenancy in February of 2018. I therefore find that the stove would have depreciated by approximately 44%, and that the Landlord is entitled to 56% of the cost of the new stove, which in these circumstances is \$276.66.

On the basis of the undisputed evidence I find that the Tenants failed to comply with section 37(2) of the *Act* when the Tenants failed to repair/replace the patio door they damaged during the tenancy.

The Residential Tenancy Policy Guidelines show that the life expectancy of a door is twenty years. There is no evidence to show that the damaged patio door has been replaced since the building was constructed and I therefore find it reasonable to conclude that the door was at least 20 years old at the end of the tenancy. I therefore find that the patio door had fully depreciated by the time this tenancy ended.

Regardless of the fact the patio door had fully depreciated by the time this tenancy ended, I find that the Landlord may not have needed to replace the door for many years if it had not been damaged by the tenancy and, for aesthetic and safety reasons, did not have the option of not repairing the door. I therefore find that the Landlord is entitled to compensation of \$200.00 for replacing the door that would not have otherwise needed to be replaced.

On the basis of the undisputed evidence I find that the Tenants failed to return two parking "hangers". I am aware of nothing in the *Act* that requires tenants to return a parking pass at the end of a tenancy and I cannot, therefore, grant compensation for losses associated to the failure to return these passes.

The dispute resolution process allows an Applicant to claim for compensation or loss as the result of a breach of *Act*. With the exception of compensation for filing the Application for Dispute Resolution, the *Act* does not allow an Applicant to claim compensation for costs associated with participating in the dispute resolution process. I therefore dismiss the Landlord's claim for compensation for mailing costs, as that is a cost associated to filing an Application for Dispute Resolution/

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 \$720.51, which includes \$143.85 for cleaning the blinds, \$276.66 to replace the stove, \$200.00 for replacing the patio door, 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 \$720.51 from the Tenants' security deposit of \$765.00 in full satisfaction of this monetary claim.

As the Landlord has not established a claim for the entire security deposit, I grant the Tenants a monetary Order for the remaining \$44.49. In the event the Landlord does not voluntarily 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: October 02, 2018

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Residential Tenancy Branch