



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PINNACLE INTERNATIONAL REALTY GROUP II  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDCL-S, FFL

### Introduction

The landlord filed an application for dispute resolution on June 14, 2018, pursuant to section 59 of the *Residential Tenancy Act* (the “Act”). The landlord seeks the following relief under sections 67 and 72 of the Act:

1. an order of compensation for cleaning and repairing the rental unit; and,
2. an order for compensation for recovery of the filing fee.

A dispute resolution hearing was convened on October 2, 2018, and the tenant and the agent for the landlord attended the hearing, were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The landlord testified that she served the tenant the Notice of Dispute Resolution Proceeding by registered mail on June 19, 2018, and the tenant acknowledged receiving it. The landlord then testified that she served the tenant with copies of all of the documentary evidence that she submitted, by way of registered mail, but that the tenant did not pick up the material. The tenant acknowledged that he did not receive the material as he had moved on July 1, 2018.

I advised the tenant that as he had not had the opportunity to review the documentary evidence, that we could adjourn the matter so that he would have the chance to review this. He requested, twice, that the hearing proceed, and that he intended to deal with the matter today. We proceeded.

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 an order of compensation for cleaning and repairing the rental unit?
2. Is the landlord entitled to an order of compensation for recovery of the filing fee?

### Background and Evidence

The landlord testified that the tenancy commenced June 1, 2017 and ended May 31, 2018. The tenancy was a fixed-term tenancy, monthly rent was \$1,700.00, and the tenant paid a security deposit of \$850.00.

On May 31, 2018, the tenant vacated the rental unit in a rather rushed manner, leaving behind a lot of household materials and furniture, and leaving the rental unit in an unclean state. The tenant did not personally hand over the keys to the landlord, did not perform any cleaning of the rental unit, and did not shampoo the carpets or steam clean the drapes, as was required under the tenancy agreement. The parties did not complete a move-out inspection report, and the tenant left the rental unit before making himself available to participate in an inspection.

The landlord testified that she had to change the deadbolt lock and order new keys (new tenants were moving in at 5:00 p.m. on May 31), shampoo the carpets, steam clean the drapes, hire a professional cleaner, remove the tenant's abandoned household property, replace a visitor's pass not returned, and replace a bathroom vanity door that was damaged by water.

In support of her application, the landlord submitted into evidence several photographs which depicted the very unclean rental unit.

The total claim for the above items is in the amount of \$1,171.85. Copies of receipts and invoices for the items was submitted into evidence by the landlord.

Regarding the landlord's claim regarding the cleaning and repairs, the tenant did not dispute this. However, he did dispute that the amount charges were unreasonable. Due to a series of unfortunate events, including his former (and rather unhelpful) roommates leaving the rental unit in disarray, his need to be at work before having an opportunity to clean the rental unit, and that the elevator was inoperable (the rental unit was on the third floor), he had no choice but to leave the rental unit as he had.

The tenant testified that while he initially had a professional cleaning company scheduled, he canceled the appointment and decided to let the landlord take care of the cleaning instead. He agreed with the landlord that she could simply deduct from his security deposit whatever the final amount was. Unfortunately, he did not anticipate that it would be as high as it ultimately was.

### 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 cleaning and a repair. 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.

Section 67 of the Act states that if damage or loss results from a party not complying with the Act, the regulations or a tenancy agreement, an arbitrator may determine the amount of, and order that party to pay, compensation to the other party. In deciding whether compensation is due, I must determine the following:

1. Has a party to a tenancy agreement failed to comply with the Act, the regulation, or the tenancy agreement?
2. If yes, did loss or damage result from that non-compliance?
3. Has the party who suffered loss or damage proven the amount or value of that damage or loss?
4. Has the party who suffered the loss or damage acted reasonably in minimizing the loss or damage?

Section 37(2)(a) of the Act states 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. In addition, the tenancy agreement required tenants to clean the carpets and drapes.

Based on the undisputed testimony of the landlord, I find that the tenant failed to comply with the Act and the tenancy agreement. And, but for the tenant's non-compliance, the

loss and damage would not have resulted.

The landlord submitted documentary evidence that itemizes each of the amounts claimed, as follows:

Cleaning of the rental unit (10 hours at \$25.00 per hour)	\$250.00
Replacement of visitor's pass	25.00
Change deadbolt and keys	107.60
New vanity doors	257.25
Furniture and garbage removal	210.00
Carpet and drape cleaning	322.00
TOTAL	\$1,171.85

While the tenant disputed the cost of the cleaning, the rental unit is 1300 ft<sup>2</sup> and was in very poor shape. As such, I find that the amount claimed is reasonable in the circumstances.

Regarding the key, the tenant testified that he left the key in a drawer and later texted the landlord as to its whereabouts. By that point, the landlord had already replaced the deadbolt and obtained new keys. As required by section 37(2)(b) of the Act, a tenant must "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" when they vacate the rental unit. In this case, the tenant did not.

Given the above, I find that the landlord has provided sufficient evidence establishing the amount that it cost her to clean and repair the rental unit.

Finally, in respect of whether the landlord acted reasonably in minimizing the loss or damage, I find that it did. The landlord acted promptly in cleaning the rental unit and in removing the property abandoned. Indeed, the gardener (who happened to be on the property that day) ended up assisting in removing the garbage and furniture; the landlord took reasonable and immediate steps in minimizing any further loss, or potential loss from the new tenants who were due to move in later that afternoon.

Taking into consideration all of the oral and documentary evidence, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving its claim for compensation related to the cleaning and repair of the rental unit.

Given the above, I grant the landlord a monetary award in the amount claimed for \$1,171.85. As the landlord was successful in her application, I further grant a monetary award in the amount of \$100.00 for recovery of the filing fee.

I order that the landlord retain the security deposit of \$850.00 in partial satisfaction of these awards.

### Conclusion

I hereby grant the landlord a monetary order in the amount of \$421.85, which must be served on the tenant. The order may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as a judgment or an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 3, 2018

---

Residential Tenancy Branch