



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding RANCHO MANAGEMENT SERVICES (B.C.) LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDL-S FFL

### Introduction

This hearing dealt with an Application for Dispute Resolution (“application”) by the landlords seeking remedy under the *Residential Tenancy Act* (“*Act*”) for a monetary order for damage to the unit, site or property, for authorization to retain the tenants’ security deposit, and to recover the cost of the filing fee.

Tenant AC (“tenant”) and an agent for the landlords JR (“agent”) attended the teleconference hearing. During the hearing the parties were given the opportunity to provide their evidence orally and ask questions about the hearing process. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Neither party raised any concerns regarding the service of documentary evidence. Both parties confirmed that they had the opportunity to review the evidence served upon them prior to the hearing.

### Preliminary and Procedural Matters

The surname of one of the landlords was spelled incorrectly which has been amended in accordance with section 64(3) of the *Act*.

In addition, the parties confirmed their email addresses at the outset of the hearing. The parties also confirmed their understanding that the decision would be sent by email to the parties. Any applicable orders will be emailed to the appropriate party.

Issues to be Decided

- Are the landlords entitled to a monetary order under the *Act*, and if so, in what amount?
- What should happen to the tenants' security deposit under the *Act*?
- Are the landlords entitled to the recovery of the cost of the filing fee under the *Act*?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on March 15, 2016, and reverted to a month to month tenancy after March 31, 2017. Originally, monthly rent was \$950.00 per month and due on the first day of each month. The parties agreed that rent was increased during the tenancy to the most recent amount of \$1,024.00 per month as of May 1, 2018. The parties agreed that the tenants vacated the rental unit on September 29, 2018. The tenants paid a security deposit of \$475.00 at the start of the tenancy, which the landlords continue to hold.

The landlords have applied for a monetary claim in the amount of \$418.61 comprised of the following:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Cleaning costs	\$100.00
2. Visitor's pass	\$50.00
3. Light bulbs and cleaning supplies	\$22.45
4. Broken balcony door handle	\$115.94
5. Dishwasher invoice	\$103.95
6. Toilet flusher button screws	\$3.90
7. Padlock	\$22.37
<b>TOTAL</b>	<b>\$418.61</b>

Regarding item 1, the landlords have claimed \$100.00 for the cost of cleaning the rental unit that the agent stated was not left dirty by the tenant. The agent stated that the amount claimed is 10 hours of cleaning at \$10.00 per hour for a total of \$100.00. A copy of the condition inspection report ("inspection report") was submitted in evidence. The

move-in inspection report was dated March 12, 2016 and the move-out inspection report was dated September 29, 2018. In the outgoing inspection report the tenant agreed with the statement that the rental unit was not 100% cleaned and that cleaning was required. Although an amount was not agreed to during the move-out inspection report for cleaning, there is no dispute that some cleaning was required. The outgoing inspection report also notes that the tenant agreed with the inspection report and that the oven, windows/coverings/screens and master bedroom flooring was dirty at the end of the tenancy.

Regarding item 2, the landlord has claimed \$50.00 due to the tenant losing the visitor pass. The parties agreed that the tenant paid \$50.00 for the visitor pass at the start of the tenancy; however, the landlord is seeking \$50.00 now which I find is not supported by the tenancy agreement or any other written agreement that indicates the tenant is responsible for an additional \$50.00 for having lost the visitor pass. The tenant confirmed she lost the visitor pass however the tenant has already paid \$50.00 for the visitor pass. As a result, this item was dismissed during the hearing due to insufficient evidence, without leave to reapply.

Regarding item 3, the landlord has claimed \$22.45 for burned out light bulbs and cleaning supplies. During the hearing, the parties agreed that only one light bulb was burned out yet the receipt indicates two bulbs. As a result, the parties were advised that I would not be granting the cost of both bulbs as the parties agreed that only one bulb was burned out at the end of the tenancy. The cost of one lightbulb on the receipt is \$6.99, plus a 15 cent levy, plus 12% taxes.

Regarding item 4, the landlord has claimed \$115.94 for a broken balcony door handle which was dismissed during the hearing as the agent admitted that the balcony door handle was added to the inspection report after it was signed by the parties. I will deal with this issue further later in this decision.

Regarding item 5, the landlord has claimed \$103.95 for a service repair request by the tenant for a dishwasher that was deemed to be functioning by the service technician. The agent referred to an invoice for \$103.95 from an appliance company dated August 20, 2018 which reads in part:

Complaint: Dishwasher not working.

Svc Performed: Tested dishwasher. No problem with functionality, water leak or property damage have been detected after service has been completed. Service performed: Customer education.

The tenant denied that the technician provided education on how to use the dishwasher as claimed on the invoice. The agent stated that the tenant should be responsible for the cost of the invoice as the dishwasher was not broken; it was not being used correctly.

Regarding item 6, the landlord is claiming \$3.90 for a broken toilet button which the tenant did not dispute was not working during the tenancy. The agent testified that he did not recall being advised by the tenant in advance of the outgoing inspection report that the toilet button was not working properly.

Regarding item 7, the landlord is claiming \$22.37 for a padlock that was provided to the tenants for the storage unit that was cut off by someone unknown to the tenants. The tenant stated that they replaced the padlock after it was cut off; however, the police cut off all the locks in the storage room when investigating a theft in the storage room and the tenants left the storage room unlocked from that point forward.

### Analysis

Based on the documentary evidence before me and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

#### *Test for damages or loss*

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in sections 7 and 67 of the *Act*. Accordingly, an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did what was reasonable to minimize the damage or loss.

In this instance, the burden of proof is on the landlord to prove the existence of the damage/loss and that it stemmed directly from a violation of the *Act*, regulation, or

tenancy agreement on the part of the tenant. Once that has been established, the landlord must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the landlord did what was reasonable to minimize the damage or loss that was incurred.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

Firstly regarding the condition inspection report, while the landlord and tenant did complete an incoming condition inspection report that holds significant weight in my decision and is required under section 23 of the *Act*, I note that the agent admitted during the hearing that he added items and detailed to the outgoing condition inspection report after it was signed and agreed upon by the parties. **I caution** the landlord not to modify or change anything on the outgoing condition inspection report once the parties have signed the agreement, unless both parties initial the change afterwards. Based on the above, I afford very little weight to the outgoing inspection as it is impossible for me to determine what other items the landlord has added to the outgoing condition inspection.

**Item 1** - The landlord has claimed \$100.00 for the cost of cleaning the rental unit that the agent stated was not left dirty by the tenant. Section 37 of the *Act* requires that the tenant leave the rental unit in reasonably clean condition, which I find the tenant admitted to having failed to comply with as the tenant confirmed she wrote that that the unit was not 100% clean. I interpret the tenant's comments as that the tenant partially cleaned the rental unit and I find the amount claimed for cleaning to be reasonable. Therefore, I find the landlord has met the burden of proof and I find the tenant breached section 37 of the *Act*. I grant the landlord **\$100.00** for item 1 as claimed.

**Item 2** - The landlord has claimed \$50.00 due to the tenant losing the visitor pass. I find the landlord has failed to meet all four parts of the test for damages or loss as the landlord has already collected the \$50.00 for the visitor pass which the tenant confirmed having lost and is not entitled to another \$50.00. This item is dismissed due to insufficient evidence, without leave to reapply.

**Item 3** - The landlord has claimed \$22.45 for burned out light bulbs and cleaning supplies. During the hearing, the parties agreed that only one light bulb was burned out yet the receipt indicates two bulbs. The cost of one lightbulb on the receipt was \$6.99

before taxes and a 15 cent levy. Therefore, I find the amount of one lightbulb is \$8.08 after taxes with the 15 cent levy applied after 12% combined GST and PST. \$22.45 minus \$8.08 is \$14.37. Residential Tenancy Branch Policy Guideline 1 indicates that burned out lightbulbs are the responsibility of the tenant to replace. I also note that I granted the cleaning costs above and that the cleaning supplies are consistent with that finding. Therefore, I find the landlord has met the burden of proof in the amount of **\$14.37** for this item and I grant the landlord that amount accordingly.

**Item 4** - The landlord has claimed \$115.94 for a broken balcony door handle. I dismissed this portion of the landlord's claim as the agent admitted that this item was added to the condition inspection report and I find that it would have been more obvious than not to have seen a broken balcony door handle during the outgoing condition inspection and that the tenant is not responsible after the fact as a result. I find the landlord has failed to meet parts one to four for the test for damages or loss. Therefore, I dismiss this portion of the landlord's claim due to insufficient evidence, without leave to reapply.

**Item 5** - The landlord has claimed \$103.95 for a service repair request by the tenant for a dishwasher that was deemed to be functioning by the service technician. Based on the invoice which I have described in detail above, I find the tenant is liable for this cost as I find the landlord has provided sufficient evidence to support that the dishwasher was not in need of repair which caused an unnecessary cost to the landlord. Therefore, I grant the landlord **\$103.95** as claimed for this item.

**Item 6** - The landlord is claiming \$3.90 for a broken toilet button which the tenant did not dispute was not working during the tenancy. I find that a broken toilet button is more likely than not caused by negligence and is simply a repair that the landlord is responsible for as a normal process of maintenance. I find the landlord has failed to meet the burden of proof by failing to meet all four parts of the test for damages or loss. This item is dismissed without leave to reapply, due to insufficient evidence.

**Item 7** - The landlord is claiming \$22.37 for a padlock; however, failed to provide a receipt that the landlord suffered a loss of \$22.37 for this portion of their claim. I find that the internal form provided is insufficient to support that \$22.37, which is a very specific amount, was paid out by the landlord for a new padlock. Therefore, I find the landlord has failed to meet the burden of proof for part 3 of the test for damage or loss. I dismiss this item without leave to reapply, due to insufficient evidence.

**I caution** the tenant to comply with section 37 of the *Act* in the future.

As the landlord's application was partially successful, I grant the landlord **\$100.00** pursuant to section 72 of the *Act* for the recovery of the cost of the filing fee.

**Monetary Order** – I find that the landlord has established a total monetary claim in the amount of **\$318.32** comprised of \$100.00 for item 1, \$14.37 for item 2, \$103.95 for item 5, plus \$100.00 for the recovery of the cost of the filing fee. Pursuant to section 38 of the *Act*, **I authorize** the landlord to retain **\$318.32** of the tenant's security deposit of \$475.00, in full satisfaction of the landlord's monetary claim. I find the security deposit has accrued \$0.00 in interest since the start of the tenancy. **I order** the landlord to immediately return the remaining security deposit balance of \$156.68 to the tenant. Should the landlord fail to comply with my order, I grant the tenant a monetary order for the balance owing by the landlord to the tenant under section 67 of the *Act* in the amount of **\$156.68**.

### Conclusion

The landlord's claim is partially successful as described above.

The landlord has established a total monetary claim in the amount of \$318.32 as noted above. The landlord has been authorized to retain \$318.32 of the tenant's security deposit of \$475.00 in full satisfaction of the landlord's monetary claim.

The landlord has been ordered to immediately return the remaining security deposit balance of \$156.68 to the tenant. Should the landlord fail to comply with my order, I grant the tenant a monetary order for the balance owing by the landlord to the tenant under section 67 of the *Act* in the amount of \$156.68. This order must be served on the tenants and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Both parties have been cautioned in this decision as noted above.

This decision will be emailed to the parties as noted above.

The tenant will be emailed the monetary order, which if required, must be served on the landlord.

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 *Residential Tenancy Act*.

Dated: January 23, 2019

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Residential Tenancy Branch