



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BOLLD REAL ESTATE MANAGEMENT  
and [tenant name suppressed to protect privacy]

## **DECISION**

### **Dispute Codes:**

MNDL-S, MNRL-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 unpaid rent, 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 November 16, 2019 the Application for Dispute Resolution, the Notice of Hearing, and evidence the Landlord submitted with to the Residential Tenancy Branch were sent to the Tenant with the initials "A.D.", via registered mail. The Tenant with the initials "A.D." acknowledged receipt of these documents and the evidence was accepted as evidence for these proceedings.

The parties in attendance at the hearing were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. The parties were advised of their legal obligation to speak the truth during these proceedings.

### **Preliminary Matter #1**

The Agent for the Landlord stated that the Application for Dispute Resolution was not served to the Tenant with the initials "J.M.", as that party did not provide the Landlord with a forwarding address. The Agent for the Landlord requested that the Application for Dispute Resolution be amended by removing this party from the Application.

The Tenant with the initials "A.D." did not dispute this request and the Application was amended accordingly.

### Preliminary Matter #2

The Agent for the Landlord requested that the Application for Dispute Resolution be amended by adding the unit number of the address. The Tenant with the initials "A.D.", hereinafter referred to as the Tenant, did not dispute this request and the Application was amended accordingly.

### 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 Landlord and the Tenant agree that:

- the tenancy began on October 01, 2017;
- the Tenant and the Tenant with the initials "J.M." signed a fixed term tenancy agreement, the fixed term of which ended on September 30, 2018;
- the Tenant and the co-tenant agreed to pay rent of \$2,200.00 by the first day of each month;
- the Tenants paid a security deposit of \$1,100.00;
- the rental unit was in good condition at the start of the tenancy; and
- the rental unit was vacated on September 31, 2018.

The Tenant with the initials "J.M." changed the locks in July of 2018 and that he has not lived in the rental unit since July of 2018. He stated that none of the damage the Landlord is claiming occurred while he was living in the rental unit.

The Tenant stated that he provided the Landlord with a forwarding address sometime in November of 2018. The Agent for the Landlord stated that the forwarding address was received on October 21, 2018.

The Landlord is seeking compensation, in the amount of \$2,421.76, for cleaning the rental unit and for removing personal property from it. The Landlord submitted video evidence, which the Agent for the Landlord stated were taken at the end of the tenancy, which show the rental unit required cleaning and that a large amount of personal

property was left in the unit. The Landlord submitted invoices to show that the Landlord incurred this expense.

The Tenant stated that he does not know if the rental unit was cleaned at the end of the tenancy, as he was not in the unit at the end of the tenancy.

The Landlord is seeking compensation, in the amount of \$900.00, for painting the rental unit. The Agent for the Landlord stated that there were small dots all over the walls and the wall was damaged where the television came away from the wall. The video evidence submitted by the Landlord corroborates this testimony. The Landlord is also seeking compensation, in the amount of \$15.00, for renting a ladder. The Agent for the Landlord stated that the Landlord rented a ladder that was needed by the painter.

The Agent for the Landlord stated that the Landlord did not submit evidence that shows the Landlord paid \$15.00 to rent the ladder. The Landlord submitted an invoice to show that the Landlord was charged \$900.00 for painting.

The Tenant stated that he does not know if the walls of the rental unit were damaged at the end of the tenancy, as he was not in the unit at the end of the tenancy.

The Landlord is seeking compensation, in the amount of \$154.04, for changing the locks to the rental unit. The Agent for the Landlord stated that the locks to the rental unit were changed sometime during the tenancy and that the Landlord was not provided with keys to the new locks. The Landlord submitted an invoice to show that the Landlord paid \$150.09 to re-key the locks.

The Tenant stated that his co-tenant changed the locks in July of 2018.

The Landlord is seeking compensation, in the amount of \$6,046.00, for repairing various damages in the rental unit. The video evidence submitted by the Landlord corroborates that extensive damage occurred in the unit. The Landlord submitted an estimate that outlines the damage that occurred during the tenancy. The estimate indicates that it will cost between \$5,846.00 and \$6,046.00 to repair the damage.

The Tenant stated that he does not know if the rental unit was damaged at the end of the tenancy, as he was not in the unit at the end of the tenancy.

The Landlord is seeking compensation, in the amount of \$300.00, for replacing access fobs. The Agent for the Landlord stated that the access fobs were not returned at the

end of the tenancy. She stated that the Landlord did not submit evidence that shows the Landlord paid \$300.00 to replace the fobs.

The Tenant stated that he does not know if the access fobs were returned at the end of the tenancy.

The Landlord is seeking \$2,200.00 in rent for September of 2018. The Agent for the Landlord stated that no rent was paid for September. The Tenant stated that he does not know if rent was paid for September of 2018.

The Landlord is seeking compensation for a late rent fee for September of 2018, in the amount of \$25.00. The tenancy agreement submitted in evidence declares that the Tenants must pay a \$25.00 fee if rent is not paid on time.

The Landlord is seeking lost revenue for October of 2018. The Agent for the Landlord stated that the Landlord was unable to rent the unit for October of 2018 because the Tenant with the initials "J.M." told them they were not permitted to access the rental unit for the purpose of showing the unit to prospective tenants.

The Tenant stated that he believes the Landlord could have found a way to show the unit to prospective tenants.

The Landlord is seeking compensation of \$200.00 because the Strata assigned a fine of \$200.00 as a result of a noise complaint on August 04, 2018. The Landlord submitted a letter that indicates the Strata was considering imposing this fine. The Agent for the Landlord stated that the Landlord did not submit any evidence to establish that the fine was actually imposed.

### Analysis

On the basis of the undisputed evidence I find that the Tenant and the Tenant with the initials "J.M." entered into a joint tenancy agreement with the Landlord, which means they are jointly and severally liable for the tenancy. This means that the Landlord can seek compensation from the Tenants either jointly or singularly.

When making a claim for damages under a tenancy agreement or the *Residential Tenancy Act (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 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 and removing personal property, which was \$2,421.76.

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 the walls that were damaged during the tenancy. I therefore find that the Landlord is entitled to compensation for the cost of painting, which was \$900.00.

In addition to establishing that a tenant damaged a rental unit, a landlord must also accurately establish the cost of repairing the damage caused by a tenant, whenever compensation for damages is being claimed. I find that the Landlord failed to establish the true cost of renting a ladder for the painter. In reaching this conclusion I was strongly influenced by the absence of any documentary evidence that corroborates the Agent for the Landlord's testimony that it cost \$15, 00 to rent a ladder. When receipts/invoices are available, or should be available with reasonable diligence, I find that a party seeking compensation for those expenses has a duty to present the receipts. I therefore dismiss the Landlord's claim for compensation for renting the ladder.

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 provide the Landlord with keys to the rental unit at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for the amount they paid to re-key the locks, which was \$150.09.

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 damage that occurred to the rental unit during the tenancy. I therefore find that the Landlord is entitled to

compensation in the amount of \$5,846.00, which is the lower amount of the estimate for repairing the damages.

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 return the access fobs at the end of the tenancy.

In addition to establishing that a tenant damaged a rental unit, a landlord must also accurately establish the cost of repairing the damage caused by a tenant, whenever compensation for damages is being claimed. I find that the Landlord failed to establish the true cost of replacing the access fobs. In reaching this conclusion I was strongly influenced by the absence of any documentary evidence that corroborates the Agent for the Landlord's testimony that it cost \$300.00 to replace the fobs. When receipts/invoices are available, or should be available with reasonable diligence, I find that a party seeking compensation for those expenses has a duty to present the receipts. I therefore dismiss the Landlord's claim for compensation for replacing access fobs.

Section 26(1) of the *Act* requires a tenant to pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this *Act*, the regulations or the tenancy agreement, unless the tenant has a right under this *Act* to deduct all or a portion of the rent.

On the basis of the undisputed evidence I find that the Tenants failed to comply with section 26 of the *Act* when rent was not paid for September of 2018. I therefore grant the Landlord's claim for \$2,200.00 in rent for that month.

As the Tenants did not pay the rent when it was due on September 01, 2018 and the tenancy agreement requires the Tenant to pay a fee of \$25.00 whenever rent is not paid when it is due, I find that the Landlord is entitled to a late fee of \$25.00 for the month of September.

Section 29(1) of the *Act* authorizes a landlord to enter a rental unit if one of the following applies:

- (a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;
- (b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information
  - (i) the purpose for entering, which must be reasonable;

- (ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;
- (c) the landlord provides housekeeping or related services under the terms of a written tenancy agreement and the entry is for that purpose and in accordance with those terms;
- (d) the landlord has an order of the director authorizing the entry;
- (e) the tenant has abandoned the rental unit;
- (f) an emergency exists and the entry is necessary to protect life or property.

I find that the Landlord had the right to enter the rental unit, pursuant to section 29(1)(b) of the Act, if the Landlord wished to enter the rental unit to show the unit to prospective tenants. I find that the Landlord could have provided the Tenant with written notice of their intent to enter the rental unit for the purposes of showing the unit; the Landlord could have then simply have ignored the Tenant's directions not to enter the rental unit; and the Landlord could have entered the rental unit to show it to prospective tenants in accordance with the notice to enter.

As the Landlord had the right to enter the rental unit to show it, I find that the Landlord is not entitled to compensation for lost revenue on the basis of being unable to show the unit. I therefore dismiss the Landlord's claim for lost revenue for October of 2019.

I find that the Landlord submitted insufficient evidence to establish that it was charged a strata fine of \$200.00 as a result of a noise complaint on August 04, 2018. In reaching this conclusion I was heavily influenced by the absence of documentary evidence that shows this fine was actually imposed. I therefore dismiss the Landlord's application to recover this fine.

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 \$11,642.85, which includes \$2,421.76 for cleaning/removing property; \$900.00 for painting; \$150.09 for re-key the locks; \$5,846.00 to repair damages in the unit; \$2,200.00 in rent for September of 2018; a \$25.00 late rent fee; 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 of \$1,100.00 in partial satisfaction of this monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance \$10,542.85. 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: March 14, 2019

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Residential Tenancy Branch