



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CASCADIA APARTMENT RENTALS  
LTD and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      FFL MNDL-S

### **Introduction**

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order money owed or compensation for loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 1:40 p.m. in order to enable the tenants to call into this teleconference hearing scheduled for 1:30 p.m. The landlord's agent, LV, attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord's agent testified that the tenants were served with the landlord's application for dispute resolution hearing package and evidence on May 14, 2019 by way of registered mail. The landlord provided the tracking information in their evidentiary materials. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenants were deemed served with the landlord's application and evidence on May 19, 2019, five days after its registered mailing.

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### **Issue(s) to be Decided**

Is the landlord entitled to compensation for losses or damage to the rental unit?

Is the landlord entitled to recover the filing fee from the tenants for this application?

### **Background and Evidence**

This month-to-month tenancy began on September 21, 2015. Monthly rent was set at \$1,200.00 at the beginning of the tenancy. The landlord had collected a security deposit in the amount of \$600.00, which the landlord still holds. The tenants moved out on April 30, 2019. The landlord performed both move-in and move-out inspections, and the tenants provided a forwarding address on the last date of the tenancy.

The landlord provided the following list of damages for their monetary claim:

<b>Item</b>	<b>Amount</b>
Carpet Cleaning	\$123.20
Cleaning	192.00
Garbage Removal	183.75
Wall Repairs	50.00
Counter top replacement	1,115.00
<b>Total Monetary Order Requested</b>	<b>\$1,663.95</b>

The landlord's agent testified that the tenants failed to leave the rental unit in reasonably clean and undamaged condition. The landlord provided invoices, photos, and inspection reports in support of their claim. The landlord testified that the countertops were brand new at the beginning of the tenancy in 2015, and the tenants had left the countertops damaged to the extent that they needed to be replaced.

### **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)(a) 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. I find that the landlord provided sufficient evidence to show that the tenants did not take reasonable care and attention when vacating the suite. I find that

the landlord had complied with sections 23 and 35 of the *Act* by performing condition inspection reports for both the move-in and move-out. I also find that the landlord supported their claims with invoices and photos. Accordingly, I find the landlord is entitled to compensation for these damages and losses.

Section 40 of the *Residential Tenancy Policy Guideline* speaks to the useful life of an item. I will use this guideline to assess the remainder of the useful life of the countertop. As per this policy, the useful life of kitchen counters is 25 years. The countertop was new at the time the tenants moved in and therefore at the end of the tenancy had approximately 21 years and 4 months of useful life left. Accordingly, I find that the landlord is entitled to \$951.47 ( $\$1,115.00/300 \times 256$ ), which is the approximate prorated value of the remainder of the useful life of the countertop.

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

In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain a portion of the tenants' security and pet damage deposits plus applicable interest in partial satisfaction of the monetary claim. Over the period of this tenancy, no interest is payable on the security deposit.

### **Conclusion**

I issue a monetary Order in the amount of \$1,000.42 in the landlord's favour under the following terms which allows a monetary award for damage caused by the tenants and allows the landlord to retain the security deposit. The landlord is also authorized to recover \$100.00 for the filing fee.

<b>Item</b>	<b>Amount</b>
Carpet Cleaning	\$123.20
Cleaning	192.00
Garbage Removal	183.75
Wall Repairs	50.00
Counter top replacement	951.47
Filing Fee	100.00
Less security deposit	-600.00
<b>Total Monetary Order</b>	<b>\$1,000.42</b>

The landlord is provided with this Order in the above terms and the tenant(s) must be served with a copy of this Order as soon as possible. Should the tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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 *Residential Tenancy Act*.

Dated: August 16, 2019

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Residential Tenancy Branch