



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding TWENTY ONE HOLDING LTD and  
[tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      MNDL-S, FFL

### **Introduction**

This hearing was convened as a result of the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act"). The landlord applied for authority to retain the tenants' security deposit and pet damage deposit, a monetary order for money owed or compensation for damage or loss and alleged damage to the rental unit, and for recovery of the filing fee paid for this application.

The landlord's agents (hereafter, "landlords") and the tenant attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

The evidence was discussed and each party confirmed receiving the other's evidence in advance of the hearing.

Thereafter the participants were provided the opportunity to present their evidence orally and to refer to relevant documentary and photographic evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral, photographic, and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (the "Rules"); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

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

Is the landlord entitled to monetary compensation from the tenant and to recovery of their filing fee paid for this application?

### Background and Evidence

The undisputed evidence was that this tenancy began on March 1, 2018, and ended on or about July 24, 2018. The monthly rent was \$2,300.00 and the tenant paid a security deposit of \$1,150.00 at the beginning of the tenancy. The landlord has retained the tenant's security deposit.

The landlord confirmed receipt of the tenant's written forwarding address by letter dated June 17, 2019.

The landlord's monetary claim is as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Cleaning	\$390.00
2. Mattress cleaning	\$154.35
3. Painting	\$605.00
<b>TOTAL</b>	<b>\$1,149.35</b>

In support of their application, the landlord submitted the following:

#### *Cleaning-*

The landlord submitted that after the tenancy ended, the rental unit required cleaning as the rental unit was left extremely dirty and required extensive cleaning and partial painting of the unit.

The landlord submitted that the rental unit was in a brand new building, everything was new, and that five people, including a baby, lived there during the tenancy. Additionally, the rental unit was furnished.

The landlord submitted photographs depicting the state of the rental unit after the tenancy ended, showing a dirty condition under the refrigerator and oven, in drawers and the walls. The landlord also submitted a condition inspection report ("CIR") and an invoice for cleaning, which showed a charge for general cleaning and for wall cleaning.

In response to my inquiry, the landlord confirmed that they had not taken photographs of the rental unit at the beginning of the tenancy, as the rental unit was brand new. The landlord further said that the photographs they submitted were taken at the day of the move-out inspection.

*Mattress cleaning-*

The landlord submitted that the mattress was stained, but that the photograph showing the condition was deleted, as they thought the matter had been resolved. The landlord submitted that the mattress required a professional cleaning.

*Painting-*

The landlord submitted the walls in the brand new rental unit required painting after the tenants vacated, due to the damage by the tenants.

*Tenant's response-*

*Cleaning; painting-*

The tenant submitted that the photographs she provided into evidence were taken the night before, and that the photos prove that the rental unit was left clean. The tenant submitted that the landlord's photographs showed walls where big furniture had been and denied damaging the rental unit's walls. The tenant also submitted that the landlord did not take the photographs during the move-out inspection.

The tenant submitted that she could not move out heavy appliances in order to clean.

The tenant submitted that she had just five minutes to look around the rental unit at the beginning of the tenancy and had no idea about a move-in inspection. There was never anything said to her, and the CIR was just signed.

The tenant denied that the rental unit had been painted and said there chips and damage, which was supposed to be repaired and painted, but never was. The tenant also said the refrigerator was not clean, as there were vegetables in it.

The tenant said the oven was clean when she left and pointed to her witness letter verifying the rental unit was left clean and tidy. The tenant also said that the only occupants were herself, mother and father.

The tenant also submitted that there was just 20 minutes spent for the move-out inspection.

*Mattress cleaning-*

The tenant submitted that she was told the old mattress was clean, so she never looked at it. The tenant denied damaging the mattress.

Analysis

After reviewing the relevant evidence, I provide the following findings, based upon a balance of probabilities:

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that results. Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss. Under section 67 of the Act, an arbitrator may determine the amount of the damage or loss resulting from that party not complying with the Act, the regulations or a tenancy agreement, and order that party to pay compensation to the other party. In this case, the landlord has the burden of proof to substantiate her claim on a balance of probabilities.

Section 37 of the Act requires a tenant who is vacating a rental unit to leave the unit reasonably clean, and undamaged except for reasonable wear and tear.

*Cleaning; painting –*

I have thoroughly reviewed the landlord's evidence which they claimed shows the tenant left the rental unit extremely dirty, requiring extensive cleaning.

In further review of the CIR, I note that the landlord did not sign the report confirming the validity of condition at the beginning of the tenancy, which I find further diminishes the landlord's assertion as to the state of the rental unit. Without the signature, I cannot find that the CIR was completed in the presence of the tenant or at the move-in inspection.

When I review the CIR, the landlord has marked relatively few items which needed a clean, as opposed to the great majority of the items showing a satisfactory condition. I

find this shows that the tenant did clean the rental unit, even if not to the landlord's satisfaction.

As to the landlord's claim that the tenant failed to clean underneath and behind the stove/oven and refrigerator, I rely upon Residential Tenancy Policy Guideline 1, which provides that the tenant is only responsible for pulling out major appliances to clean behind and underneath if they are on rollers. In this case, there was no proof the major appliances were on rollers.

While the landlord said no photographs were taken at the beginning of the tenancy as the rental unit was brand new, I do not find this sufficiently proves the condition of the rental unit. There just as likely as not could have been blemishes or deficiencies which would require a touch-up to the walls.

I also could not rely upon the landlord's photographs as proof, as there were no identical shots of the same item or location at the start and end of the tenancy. In some cases, the photographs were of such an extreme close-up of the item, it was not clear if this was alleged damage or reasonable wear and tear.

In some of the photographs, I could not tell if there was paint damage or shadows on the wall. In other photographs, I was unsure as to what damage the landlord might have been indicating.

I note that the painting invoice supplied by the landlord lists "painting", but does not specify the location or area in the rental unit, or square feet. The CIR mentions only that the living or family room needed painting.

After a thorough review of the landlord's evidence, I find the landlord was able to support a claim for a dirty stove top, as I find the marks left around the rings to be more than reasonable wear and tear. I also find there were a couple of items which appeared to be left in the shelves, such as a taped box and caramel peanuts.

I find a reasonable amount to award the landlord is \$75.00 for stove cleaning and removal of the items.

*Mattress cleaning-*

I find the landlord submitted insufficient evidence to show the condition of the mattress either at the beginning or end of the tenancy. There was no mention of the mattress on the CIR or a photograph from the beginning or end of the tenancy.

I dismiss the landlord's claim for mattress cleaning.

I find the landlord has been minimally successful with their application and I award them a filing fee in the amount of \$100.00, pursuant to section 72 of the Act.

Due to the above, I find the landlord is entitled to a monetary award of \$175.00, comprised of \$75.00 for stove cleaning and removal of the items and recovery of their filing fee of \$100.00.

I direct the landlords to retain the amount of \$175.00 from the tenant's security deposit of \$1,150.00 in full satisfaction of their monetary award. Pursuant to section 62(3), I order the landlord to return the balance of the tenant's security deposit.

To give effect to this order, I grant the tenant a monetary order in the amount of the balance of their security deposit of \$975.00.

Should the landlord fail to pay the tenant this amount without delay, the order may be served upon the landlord and filed in the Provincial Court of British Columbia (Small Claims) for enforcement purposes. The landlord is advised that costs of such enforcement are recoverable from the landlord.

Conclusion

The landlord's application has been partially successful as they are granted a monetary award in the amount of \$175.00, a portion of their monetary claim. The landlord is directed to retain this amount from the tenant's security deposit and to return the balance to the tenant.

The tenant is granted a monetary award for the balance of her security deposit.

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 28, 2019

---

Residential Tenancy Branch