



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BRITISH COLUMBIA HOUSING MANAGEMENT  
COMMISSION and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      **FFL MNDL**

### Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* for the following:

- A monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

The landlord's agent MB attended ("the landlord"). The landlord was given the opportunity to make submissions as well as present affirmed testimony and written evidence.

The tenant did not attend the hearing. I kept the teleconference line open from the time the scheduled time for the hearing plus an additional ten minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant had been provided

The landlord provided affirmed testimony that the landlord served the tenant with the Notice of Hearing and Application for Dispute Resolution by registered mail sent on May 31, 2019 and deemed received by the tenant under section 90 of the *Act* five days later, that is, on June 5, 2019.

The landlord provided the Canada Post Tracking Number in support of service to which I refer on the cover page. Pursuant to sections 89 and 90, I find the landlord served the tenant with the Notice of Hearing and Application for Dispute Resolution on June 5, 2019.

#### Issue(s) to be Decided

Is the landlord entitled to the following:

- A monetary order for compensation for damage or loss under the *Act, Residential Tenancy Regulation ("Regulation")* or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

#### Background and Evidence

The landlord provided uncontradicted testimony as the tenant did not attend the hearing. The landlord testified the monthly tenancy agreement began on December 1, 2016 and ended when the tenant vacated on July 31, 2018. Rent was \$533.00 monthly payable on the first of the month. No security deposit was paid.

The landlord testified that a condition inspection was conducted on moving in and moving out. The landlord submitted a copy of the report as evidence signed by both parties. The landlord testified that the paint and carpet were new. The unit is noted to be in good condition in all relevant aspects on moving in.

On moving out, the report noted that the unit required cleaning and there were holes in the drywall and other damages which required repair.

The landlord submitted many photographs taken at the time of the condition inspection report on moving out illustrating the need of the unit's cleaning and showing several holes in the drywall.

The landlord testified the landlord paid for the cleaning of the unit after the tenant vacated and submitted a receipt in the amount of \$612.00 for cleaning costs for which the landlord seeks reimbursement.

The landlord testified the landlord paid for drywall and painting touch-up repair costs of

\$1,300.00 after the tenant vacated and submitted a receipt in this amount for which the landlord seeks reimbursement of one-half, being \$650.00.

The landlord's claim is summarized as follows:

ITEM	AMOUNT
Cleaning costs	\$612.00
Drywall repairs and paint touch up (1/2 total invoice)	\$650.00
Reimbursement of the filing fee	\$100.00
<b>Total Monetary Award Requested by Landlord =</b>	<b>\$1,362.00</b>

### Analysis

I have considered all the submissions and evidence presented to me, including those provided in writing and orally. I will only refer to certain aspects of the submissions and evidence in my findings.

Section 67 of the Act allows me to issue a monetary award for loss resulting from a party violating the Act, regulations or a tenancy agreement.

Section 7(1) of the Act provided that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-complying party must compensate the other for damage or loss that results.

To claim for damage or loss, the claiming party bears the burden of proof on a balance of probabilities; that is, something is more likely than not to be true. The claimant must establish four elements.

The claimant must prove the existence of the damage or loss. Secondly, the claiming party must that the damage or loss stemmed directly from a violation of the agreement or a contravention on the part of the other party.

Once those elements have been established, the claimant must then provide evidence

that can verify the actual monetary amount of the loss or damage. Finally, the claimant has a duty to take reasonable steps to reduce, or mitigate, their loss.

In this case, the onus is on the landlord to prove the landlord is entitled a claim for a monetary award.

Reference to each of the landlord's claims follows.

### *Cleaning*

I have considered all the evidence submitted by the landlord, including the receipts, the photographs showing the unit needed cleaning and repairs, and the condition inspection report on moving in and moving out in which the tenant agreed the unit needed cleaning.

Considering the evidence and testimony, I find the landlord has met the burden of proof on a balance of probabilities that the unit needed cleaning when the tenant vacated, the tenant is responsible for the lack of cleanliness, the landlord incurred \$612.00 in cleaning expenses, and the landlord took all reasonable steps to mitigate expenses. I find the landlord is entitled to a monetary award in the amount requested for this aspect of the claim.

### *Drywall and paint touch-up*

As well, in considering all the above-mentioned evidence and testimony including the receipts and the photographs, I find the landlord has met the burden of proof on a balance of probabilities that the drywall needed repairs when the tenant vacated, the tenant is responsible for the damage, the landlord incurred \$650.00 in repair expenses (representing one-half of the cost to the landlord), and the landlord took all reasonable steps to mitigate expenses. I find the damage is more than 'reasonable wear and tear'. I find the landlord is entitled to a monetary award in the amount requested for this aspect of the claim.

### *Filing fee*

As the landlord has been successful in this matter, I award the landlord reimbursement of the filing fee in the amount of \$100.00.

## Summary

I grant a monetary order to the landlord in the amount of \$1,362.00. My award to the landlord is summarized as follows:

ITEM	AMOUNT
Cleaning costs	\$612.00
Drywall repairs and paint touch up (1/2 total invoice)	\$650.00
Reimbursement of the filing fee	\$100.00
<b>Total Monetary Award</b>	<b>\$1,362.00</b>

## Conclusion

The landlord is entitled to a monetary order in the amount of **\$1,362.00**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) to be 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: September 03, 2019

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Residential Tenancy Branch