



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDL-S, FF

### Introduction

This hearing was convened as a result of the landlords' application for dispute resolution under the Residential Tenancy Act (Act) for:

- a monetary order for alleged damage caused by the tenants; and
- recovery of the filing fee paid for this application.

The landlords and the tenants attended, the hearing process was explained, and they were given an opportunity to ask questions about the hearing process.

The parties confirmed receiving the other's evidence.

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

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the parties' respective submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issue(s) to be Decided

Are the landlords entitled to monetary compensation from the tenants for alleged damage and cleaning of the rental unit?

Are the landlords entitled to recovery of the filing fee paid for the application?

Background and Evidence

While I have turned my mind to all the documentary evidence, and testimony, not all details of the submissions and / or arguments are reproduced here. The principal aspects of the landlords' claim and my findings around it are set out below.

The landlord submitted that the tenancy began on June 1, 2018, ended on October 31, 2019, monthly rent was \$1,700, and the tenants paid a security deposit of \$600 and a pet damage deposit of \$400.

The landlords have kept the security deposit and the pet damage deposit, having made this claim against them.

The landlords' monetary claim for alleged damages and cleaning of the rental unit is as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Cleaning company charges	\$472.50
2. Landlords' cleaning charges	\$250.00
3. Bar stool replacement	\$450.00
4. Filing fee	\$100.00
<b>TOTAL</b>	<b>\$1,272.50</b>

In support of, and in response to the landlords' application, the parties provided the following oral evidence:

*Cleaning company charges-*

The landlords submitted that the tenants failed to leave the rental unit properly cleaned at the end of the tenancy, which required them to have a professional company come in and clean.

In further explanation, the landlords submitted that there was an exorbitant amount of pet hair and dirt, which caused the cleaning and carpet cleaning. Additionally, the state of the rental unit itself was insufficiently cleaned, according to the landlords.

The landlords submitted that when one tenant attended the rental unit the next day, his words were, "I guess our vacuum cleaner sucks, but not in a good way".

The landlords submitted that they had to hire a carpet cleaning company to remove the pet hair and dirt.

The landlords confirmed there was not a move-out inspection, but that there was a walk-through with the tenants, at night, while looking for damage.

Landlord MS said that the lack of a move-out inspection was a "miss" on their part.

The landlords submitted that they only discovered the unclean condition of the rental unit the next morning, in the light of day.

In response to my inquiry, the landlord confirmed her text message evidence, in which she informed the tenants their responsibility was to leave the rental unit in the same shape as it was provided to them.

In response, the tenants submitted in the absence of the move-out condition inspection report (CIR), there is no basis for the landlords' claim. The tenant challenged the use of the word excessive, in relation to the pet hair.

The tenant submitted that they asked the landlord for a report of the cleaning company, and when the landlords sent it, there were no notations on it, as opposed to the copy of the cleaning invoice in the landlords' evidence.

The tenant submitted they had already cleaned the rental unit and nothing about the state of the rental unit was noted on the walk-through. The landlords indicated that their security deposit would be returned.

The tenant submitted that two of the tenants have worked for cleaning companies and know how to properly clean a home.

The tenant submitted that the carpets in the rental unit were shag and was extremely hard to clean; however, they did their best and the carpets were cleaned.

The tenant submitted that they were denied the chance to come back to the rental unit to further clean. The tenant submitted that the landlords had already hired a cleaning company by 9:00 the next morning.

Another tenant submitted that there was no baseline for the landlords' photos, and that they were told by the landlords that the cleaning would cost \$200-\$300.

The tenant questioned why it would take 3 people 6 hours to clean a house, and that the landlords did not receive any other quotes for cleaning to reduce the costs.

#### *Landlords' cleaning charges-*

The landlords submitted they cleaned along with the cleaning company, which meant they cleaned the upper floor and the cleaning company cleaned the lower two levels.

The landlords said they started cleaning before the cleaning company arrived in order to expedite the process. As to their request for supplies, the landlord said they were personal supplies from their home.

In response, the tenant said that at the walk-through on October 31, 2019, if the rental unit had been that "filthy", it would have been apparent.

The tenant submitted that the lights were all on during the walk-through and they were told they would receive their security deposit.

#### *Replacement of bar stools-*

The landlord submitted that the tenants' cat scratched the leather bar stool, causing damage. The landlord confirmed they did not see the scratches the night of the walk-through, and they did not look that bad.

The landlord said that the bar stools are now in their home and have not been replaced.

The landlord confirmed that she did not have proof of the costs of the bar stools when purchased and that they were eight years old. The monetary claim was the amount the landlord paid, according to the landlord.

In response, the tenants agreed that their cat left scratches on the bar stool and that they owe the landlords for the damage. The tenants could not agree on an amount.

The landlord's relevant evidence included photographs of certain locations in the rental unit, the written tenancy agreement, and the receipt from the cleaning company.

The tenants' relevant evidence included photos of certain locations of the rental unit.

### Analysis

Based on the relevant oral, written and photographic evidence, and on a balance of probabilities, I find as follows:

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 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlords have the burden of proof to prove their claim.

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 burden to prove their claim and the claim fails.

As to the individual claims, I find the following:

#### *Cleaning company charges; landlords' cleaning charges and supplies -*

Under section 37(2) of the Act, at the end of a tenancy, when the tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

Under sections 35(3) of the Act, a landlord must complete a condition inspection report in accordance with the Residential Tenancy Regulations and both parties must sign the report.

In the circumstances before me, it is undisputed that the landlords failed to meet their obligation under of the Act of completing the inspection and providing the report, which would show a record of and tend to prove the condition of the rental unit prior to the tenancy and after the tenancy ended. It is important that a tenant is provided an opportunity to note their version of the condition of the rental unit, and in this case, there was no such opportunity.

Having said that, under the Act as noted above, the tenants are required to leave the rental unit reasonably clean. The tenants are responsible for paying cleaning costs where the property is left at the end of the tenancy that does not comply with the Act.

The tenants are not responsible for cleaning of the rental unit to bring the premises to a higher standard, in this case, where the landlords expected the tenants to leave the rental unit in exactly the same condition as they received it.

I have reviewed the photographs submitted by the respective parties. Although the landlords' photographs show minor deficiencies in some areas, they did not provide photographs of the entire rental premises to show the rental unit was not overall left in its totality reasonably clean.

I accept the tenants' photographs that the rental unit was left reasonably clean.

I find it reasonable that the landlords would have noticed some of the claimed deficiencies during the walk-through, yet they did not.

For the above reasons, I find the landlords have failed to prove a violation of the Act by the tenants. Therefore, I dismiss the landlords' claim for cleaning charges, both from the cleaning company and their cleaning and supplies.

#### *Bar stool replacement –*

The tenants, while agreeing that their cat damaged the bar stool and that they owe the landlords some amount, could not agree to an amount of compensation.

In light of the landlords' failure to provide any proof of the original costs or that the bar stool will ever be replaced, I will defer to the Residential Tenancy Branch (RTB) Policy

Guideline to award the landlords compensation for a nominal amount, in acknowledgement of the tenants' agreement of the damage.

Guideline 40 provides for the useful life of building elements and in particular, the useful life of furniture is 10 years. The landlord confirmed that the bar stool was 8 years old, so I award the landlords the amount of \$90, which is the unconfirmed purchase costs of \$450, less the depreciated value of eight years. (8 of 10 years = 80% depreciation. \$450 – 80% depreciated value. \$450 - \$360 = \$90).

As the landlords have had partial success with their application, I award them recovery of their filing fee of \$100.

Due to the above, I grant the landlords a total monetary award of \$190, comprised of the depreciated value of the bar stools for \$90 and the filing fee of \$100.

In these circumstances, I find it appropriate to off-set the amount of the landlords' monetary award of \$190 from the tenants' security deposit of \$600 and pet damage deposit of \$400, or \$1,000 in total, and order the landlord to return the balance, in the amount of \$810. To give effect to this order, I grant the tenants a monetary order in the amount of \$810.

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

### Conclusion

The landlords' application has been partially successful, they have been granted a monetary award of \$190, which is off-set against the tenants' security deposit of \$600 and pet damage deposit of \$400, or \$1,000 in total.

The landlord is ordered to return the balance of the tenants' security deposit and pet damage deposit, immediately, and the tenants are granted a monetary order in the amount of \$810 in the event the landlords do not comply with this order.

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: April 27, 2020

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Residential Tenancy Branch