



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

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, to retain the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

The Landlord stated that on April 17, 2020 the Dispute Resolution Package and evidence the Landlord submitted to the Residential Tenancy Branch in April of 2020 was sent to the Tenants, via email. Email service was permissible on April 17, 2020 due to the COVID-19 crisis. The Tenants acknowledged receipt of these documents and they were accepted as evidence for these proceedings.

In July of 2020 the Landlord submitted additional evidence to the Residential Tenancy Branch. The Landlord stated that this evidence was mailed to the Tenants on July 16, 2020, via registered mail. The Tenants acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

On July 04, 2020 the Tenants submitted evidence to the Residential Tenancy Branch. The male Tenant stated that this evidence was mailed to the Landlord on July 04, 2020, via registered mail. The Landlord acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

On July 28, 2020 the Tenants submitted additional evidence to the Residential Tenancy Branch. The male Tenant stated that this evidence was mailed to the Landlord on July 28, 2020, via registered mail. The Landlord acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each party affirmed that they would provide the truth, the whole truth, and nothing but the truth at these proceedings.

### Issue(s) to be Decided

Is the Landlord entitled to compensation for propane costs, for the costs of pest control, and for the cost of replacing solar lights?

If so, is the Landlord entitled to retain all or part of the security deposit?

### Background and Evidence

The Landlord and the Tenants agree that:

- the tenancy began on March 31, 2019;
- the tenancy ended on March 31, 2020;
- the Tenants paid a security deposit of \$900.00;
- the security deposit has not been returned to the Tenants; and
- the Tenants provided the Landlord a forwarding address on March 31, 2020, via text message.

The Landlord is seeking compensation, in the amount of \$787.50, which is the amount charged by a pest control company on January 06, 2020. In regard to this claim the Landlord and the Tenants agree that:

- there was a mice infestation in the rental unit;
- on October 11, 2019 the Landlord authorized the Tenants to contact a pest control company to address the mice infestation;
- a pest control company set baited traps in the unit in late October or early November of 2020;
- the Landlord paid the cost of the initial treatment;
- there was a 6 month guarantee on the initial pest control treatment;
- the Tenants were to notify the pest control company directly if the pest infestation continued;
- in January the pest control company performed a “mice exclusion” at the unit;
- the pest control company has billed the Landlord \$787.50 for the “mice exclusion” treatment.

In regard to the \$787.50 claim the male Tenant stated that:

- when the pest control company explained the “mice exclusion” treatment, he understood it was included in the aforementioned 6 month guarantee;

- he would not have agreed to the “mice exclusion” treatment if he knew the work was not included in the 6 month guarantee; and
- the “mice exclusion” treatment did not fully resolve the infestation.

In regard to the \$787.50 claim the female Tenant stated that:

- she spoke with the pest control company after the “mice exclusion” treatment had been completed;
- the company told her that they should have obtained the approval of the Landlord prior to performing the “mice exclusion” treatment;
- the company told her that they would not be attempting to collect the \$787.50 invoice because the work had not been approved by the Landlord.

In regard to the \$787.50 claim the Landlord stated that:

- she did not approve a “mice exclusion” treatment;
- she believed the mice infestation had been resolved prior to January of 2020;
- if the Tenants had informed her that the mice infestation was continuing, she would have asked the pest control company to use a stronger form of poison, rather than approve the “mice exclusion” treatment;
- she has not received any information from the pest control company that indicates they will not be attempting to collect the \$787.50 invoice;
- she received a second invoice for \$787.50 from the company in February of 2020, but she has received nothing since; and
- she does not know if the \$787.50 debt has been sent to a collection agency.

The Landlord submitted a copy of the \$787.50 invoice, which names the Landlord as the customer.

The Tenants submitted an email exchange between the female Tenant and the pest control company. In the exchange the female Tenant asks the pest control company for an email that confirms there is no money “owing at this address” and that the “invoice has been written off”. The female Tenant also declares that she was told the Landlord would also receive an email confirming the invoice was “written off”. The female Tenant stated that this exchange relates to the \$787.50 invoice.

In the exchange the pest control company replies that “There was one sent yesterday” and they requested that the Tenant no longer contact them regarding the matter.

The Landlord is seeking compensation of \$160.34 for propane. The Landlord and the Tenants agree that the Tenants were to pay for propane consumed during the tenancy.

The male Tenant stated that the propane tank was full when the tenancy started, and it was not full when the tenancy ended. The male Tenant agreed to compensate the Landlord \$160.34 for propane.

The Landlord is seeking compensation of \$312.84 to replace solar lights.

In regard to the claim for solar lights the Landlord stated that:

- there were post top solar lights at the unit at the start of the tenancy, which were working properly;
- the Tenants replaced the solar lights during the tenancy;
- the Tenants purchased the replacement solar lights in April of 2019;
- a co-landlord gave the Tenants permission to purchase new solar lights in May of 2019;
- the Tenants took the replacement solar lights with them at the end of the tenancy; and
- the Tenants did not leave the old solar lights at the unit at the end of the tenancy.

In regard to the claim for solar lights the male Tenant stated that:

- there were post top solar lights at the unit at the start of the tenancy, which did not work;
- the Tenants replaced the solar lights during the tenancy;
- the Tenants purchased the replacement solar lights on, or about, April 15, 2019;
- a co-landlord gave the Tenants permission to purchase new solar lights prior to the lights being purchased;
- the Tenants took the new solar lights with them at the end of the tenancy; and
- the Tenants left the old solar lights in a bag on the deck at the unit at the end of the tenancy.

The Tenants submitted a copy of a text message from the co-landlord, dated July 04, 2020. In this message the co-landlord declared that:

- the solar lights at the rental unit were not working prior to the start of the tenancy;
- it was obvious to him the lights were “old and corroded”;
- approximately one month after the tenancy began the male Tenant asked if he could purchase new solar lights;
- he agreed to that request and expected to reimburse the Tenants for the cost of the lights; and
- the Tenants did not ask for compensation for the lights.

The Landlord stated that the text message has been cut and pasted by the Tenants and, as such, may be “fake”.

The Tenants submitted a copy of a receipt for solar lights, dated April 10, 2019.

### 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.

I find that the Landlord has submitted insufficient evidence to establish that she has suffered a loss of \$787.50 in regard to an invoice from a pest control company.

In reaching this conclusion I was heavily influenced by the testimony of the female Tenant, who declared that she spoke with the pest control company about the \$787.50 invoice and she was told the company would not be attempting to collect the debt because the work had not been approved by the Landlord. I find that this testimony is corroborated by the email exchange between the female Tenant and the pest control company.

In reaching this conclusion I was further influenced by the testimony of the Landlord. Although she does not acknowledge receiving an email from the pest control company forgiving the debt, she stated that she received a second invoice for \$787.50 in February of 2020 and that she has not received another invoice since that time. I find that this also serves to corroborate the female Tenant’s testimony, as one would expect the company to send a third invoice if they intended to collect the debt.

As the Landlord has submitted insufficient evidence to establish the pest control company is attempting to collect \$787.50 from the Landlord, I cannot conclude that the Landlord has experienced a loss of \$787.50. As the Landlord has failed to establish that she has experienced a loss of \$787.50, I dismiss her claim for that amount.

As the male Tenant agreed to pay \$160.34 in compensation for propane consumed during the tenancy, I find that the Landlord has the right to deduct this amount from the security deposit.

I find that the Landlord submitted insufficient evidence to establish that the solar lights were working at the start of the tenancy. In reaching this conclusion I was heavily influenced by the absence of any evidence to corroborate her testimony that the lights were working at the start of the tenancy.

Conversely, I find that the text message from the co-landlord, dated July 04, 2020, corroborates the male Tenant's testimony that the solar lights were not working at the start of the tenancy. In this message the co-landlord declares that the solar lights were not working at the start of the tenancy.

I find the Landlord's submission that the text message from the co-landlord may be "fake" is highly speculative. In the absence of evidence from the co-landlord that corroborates this submission, I find it reasonable to accept the evidence at face value.

On the basis of the undisputed testimony, I find that the Tenants removed the original solar lights and purchased new ones. I find that this further corroborates the male Tenant's testimony that the original lights were not working, as it seems unlikely that a tenant would replace functional solar lights.

As the Landlord has failed to establish that the solar lights were in good working order at the start of the tenancy, I cannot conclude that the Landlord suffered a loss as a result of the lights being removed, as non-functioning solar lights have little, if any, value. As the Landlord has failed to establish that she has experienced a loss in regard to the lights, I dismiss her claim for solar lights.

I find that the Landlord's Application for Dispute Resolution has some 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 \$260.34, which includes \$160.34 for propane and the \$100.00 filing fee. Pursuant to section 72(2) of the *Residential Tenancy Act (Act)*, I authorize the Landlord to retain \$260.34 from the Tenant's security deposit in full satisfaction of this monetary claim.

As the Landlord has failed to establish the right to retain the remaining portion of the Tenants' security deposit, I find that the Landlord must return the remaining \$639.66 of the security deposit to the Tenants.

Based on these determinations I grant the Tenants a monetary Order for \$639.34. In the event the Landlord does not voluntarily comply with this Order, it may be served on the Landlord, 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: August 19, 2020

---

Residential Tenancy Branch