



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FFL, MNDL, MNDCL-S

### Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution, made on August 28, 2020 (the "Application"). The Landlords applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage compensation and loss;
- an order to retain the security deposit; and
- an order granting recovery of the filing fee.

The Landlord M.I., and the Tenant M.C. attended the hearing at the appointed date and time. At the beginning of the hearing, the parties acknowledged receipt of their respective application package and documentary evidence. No issues were raised with respect to service or receipt of these documents during the hearing. Pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were provided with a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

1. Are the Landlords entitled to a monetary order for damage, compensation, or loss, pursuant to Section 67 of the *Act*?
2. Are the Landlords entitled to retaining the security deposit, pursuant to Section 38, and 72 of the *Act*?
3. Are the Landlords entitled to an order granting recovery of the filing fee, pursuant to Section 72 of the *Act*?

### Background and Evidence

The parties testified and agreed that the tenancy began on August 15, 2019. During the tenancy, the Tenants were required to pay rent in the amount of \$2,450.00 to the Landlords on the first day of each month. The Tenants paid a security deposit in the amount of \$1,225.00 as well as a pet damage deposit in the amount of \$1,225.00, both of which the Landlords continues to hold. The tenancy ended on August 9, 2020 and the Landlords received the Tenants' forwarding address on August 15, 2020 during the condition inspection of the rental unit.

The Landlords are claiming \$4,125.00 in relation to loss of rental income. The Landlord stated that the Tenants had been consuming an unreasonable amount of hot water while making use of the jacuzzi bathtub in the rental unit. The Landlord stated that this resulting in the neighbouring rental units having insufficient hot water which led to other occupant moving out of their rental unit while the Landlords were travelling outside of the Country. The Landlord stated that she was unable to re-rent the other rental unit until she returned home from her trip.

The Tenant denied misusing the jacuzzi bathtub and stated that the Landlords had the hot water tank turned down to conserve energy, resulting in all the occupants experiencing a loss of hot water.

The Landlords are claiming \$2,450.00 which is equivalent to one month of rent. The Landlord stated that the Tenants blocked the Landlords and a plumber from entering the rental unit on several occasions. The Tenant responded that the Landlords had hired a plumber to disconnect the jacuzzi bathtub during the Covid-19 state of emergency. The Tenant stated that she works with high risk clients who are susceptible to infections.

The Landlords are claiming \$436.12 in relation to carpet cleaning at the end of the tenancy. During the hearing, the Tenant agreed to compensation the Landlord in the amount of \$436.12 for carpet cleaning.

The Landlord is claiming \$659.00 in relation to cleaning the kitchen, floors, cabinets, and windows, and bathrooms. The Landlord stated that she was also required to have the balcony, skylights, and exterior windows cleaned. The Landlord provided a written receipt, and photographic evidence in support.

The Tenant stated that they left the house clean at the end of the tenancy and provided videos of the condition of the rental unit in support. The Tenant stated that portions of

the Landlords' claims for cleaning relate to cleaning the roof, skylights, and exterior windows which is not the Tenants' responsibility to clean. The Tenant also stated that the balcony was dirty from blasting in the area, which was not caused by the Tenants.

The Landlords are claiming \$299.00 to repair a broken screen door. The Landlord stated that the Tenants pet tore a hole in the screen. The Landlords provided photographic evidence, and a receipt in support. The Tenant stated that the screen door had been damaged prior to the commencement of the tenancy. The Tenant provided photographic evidence in support. The Tenant also referred to the condition inspection report which was completed between the parties at the start of the tenancy which indicates that the screen had tears in it.

The Landlords are claiming \$1,800.00 in relation to repairing holes in the drywall which were caused by the Tenants. The Landlords provided a quote for the work, as well a photographic evidence in support. The Tenant stated that aside from the holes made by the Tenants to mount their television, the Tenants did not cause any further damage to the walls in the rental unit beyond what could be considered reasonable wear and tear.

Lastly, the Landlords are claiming \$182.00 for the cost of repainting the front door of the rental unit. The Landlord stated that the Tenants damaged the door by causing dents and scratches to the door. The Landlord stated that she repainted the door herself. The Tenant stated that the front door is 16 years old and has sustained normal wear and tear. The Tenant denied causing damage to the door.

### Analysis

Based on the oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 67 of the *Act* empowers me to order one party to pay compensation to the other if damage or loss results from a party not complying with the *Act*, regulations or a tenancy agreement.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided for in sections 7 and 67 of the *Act*. An applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;

2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and
4. That the party making the application did what was reasonable to minimize the damage or loss.

In this case, the burden of proof is on the Landlords to prove the existence of the damage or loss, and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Tenants. Once that has been established, the Landlords must then provide evidence that can verify the value of the loss or damage. Finally, it must be proven that the Landlords did what was reasonable to minimize the damage or losses that were incurred.

The Landlords are claiming \$4,125.00 in relation to loss of rental income as the Tenants had been consuming an unreasonable amount of hot water while making use of the jacuzzi bathtub in the rental unit. I find that the Landlords have provided insufficient evidence to demonstrate that the Tenants' use of the jacuzzi bathtub has breached the *Act*, regulations, or tenancy agreement. As such, I dismiss this claim without leave to reapply.

The Landlords are claiming \$2,450.00 which is equivalent to one month of rent. The Landlord stated that the Tenants blocked the Landlord and a plumber from entering the rental unit on several occasions. In this case, I find that the Landlords have provided insufficient evidence to demonstrate that the Landlords suffered a loss as a result of the Tenants refusing entry during the state of emergency. As such, I dismiss this claim without leave to reapply.

The Landlords are claiming \$436.12 in relation to carpet cleaning at the end of the tenancy. During the hearing, the Tenant agreed to compensation the Landlords in the amount of \$436.12 for carpet cleaning. As such, I find that the Landlord is entitled to compensation in the amount of **\$436.12**.

The Landlords are claiming \$659.00 in relation to cleaning the kitchen, floors, cabinets, and windows, and bathrooms. The Landlord stated that she was also required to have the balcony, skylights, and exterior windows cleaned. In this case, I find that some of the cleaning being claimed by the Landlords including the roof, skylights and exterior windows do not fall within the Tenants' responsibilities to clean at the end of the tenancy. I find that the Landlords have provided sufficient evidence to demonstrate that some cleaning was required inside the rental unit. As such, I award the Landlords a

portion of their claim relating to cleaning the kitchen, bathroom and balcony in the amount of **\$345.00**.

The Landlords are claiming \$299.00 to repair a broken screen door. The Landlord stated that the Tenants pet tore a hole in the screen. The Tenant stated that the screen door had been damaged prior to the commencement of the tenancy. I accept that the condition inspection report which was completed between the parties at the start of the tenancy indicates that the screen had tears in it. As such, I find that the Landlords are not entitled to the replacement costs of a new screen door and dismiss this claim without leave to reapply.

The Landlords are claiming \$1,800.00 in relation to repairing holes in the drywall which were caused by the Tenants. The Tenant stated that aside from the holes made by the Tenants to mount their television, the Tenants did not cause any further damage to the walls in the rental unit beyond what could be considered reasonable wear and tear.

In this case, I am satisfied that there was some damage to the walls in the rental unit at the start of the tenancy, as indicated in the condition inspection report. I accept that the Tenants caused some damage to the walls by mounting their television, however, I am not satisfied that the value of the Landlords' claim. As such, I award the Landlords a nominal award in the amount of **\$200.00**.

Lastly, the Landlords are claiming \$182.00 for the cost of repainting the front door of the rental unit. In this case, I find that the Landlord provided insufficient evidence to support the value of the loss. As such, I dismiss this portion of the Landlords' claim without leave to reapply.

Having been partially successful, I find the Landlords are entitled to recover the **\$100.00** filing fee paid to make the Application. I also find it appropriate in the circumstances to order that the Landlords retain \$1,081.12 from the \$2,450.00 security and pet damage deposit held in satisfaction of the claim ( $\$2,450.00 - \$1,081.12 = \$1,368.88$ )

Pursuant to section 67 of the *Act*, I find the Tenants are entitled to a monetary order in the amount of \$1,368.88, which represents the remaining balance of their security and pet damage deposits less the previously mentioned deductions.

Conclusion

The Landlords have established an entitlement to monetary compensation in the amount of \$1,081.12 which has been deducted from the Tenants' security and pet damage deposits. The Tenants are granted a monetary order in the amount of \$1,368.88 which represents the remaining balance of the Tenants' deposits. The order should be served to the Landlords as soon as possible and may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: October 23, 2020

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Residential Tenancy Branch