



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, FFL

Introduction

This hearing was convened as a result of the Landlords' Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for a monetary order for damages in the amount of \$750.00, retaining the security deposit to apply to the claim; and to recover the \$100.00 cost of their Application filing fee.

The Tenants, I.Y.B and D.O., and the Landlords, A.T. and S.S., attended the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing the Tenants and the Landlords were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Neither Party raised any concerns regarding the service of the Application for Dispute Resolution or the documentary evidence. Both Parties said they had received the Application and/or the documentary evidence from the other Party and had reviewed it prior to the hearing. The Tenants acknowledged that they had not uploaded any evidence to the RTB or served any evidence on the Landlords for this hearing.

Preliminary and Procedural Matters

The Parties provided their email addresses at the outset of the hearing and confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

Early in the hearing, I advised the Parties that pursuant to Rule 7.4, I would only consider their written or documentary evidence to which they pointed or directed me in the hearing.

Issue(s) to be Decided

- Are the Landlords entitled to a monetary order, and if so, in what amount?
- Are the Landlords entitled to recovery of the Application filing fee?

Background and Evidence

The Parties agreed that the fixed term tenancy began on January 1, 2020, running to June 30, 2020, and then operating on a month-to-month basis. They agreed that the rental unit is a basement suite in a single-family dwelling and that it was brand new in the summer of 2019.

The Parties agreed that the Tenants paid the Landlords a monthly rent of \$1,500.00, due on the first day of each month. They agreed that the Tenants paid the Landlords a security deposit of \$750.00, and no pet damage deposit.

The Parties agreed that the Tenants vacated the rental unit on June 30, 2020, and that they provided their forwarding address to the Landlords in person in the week to follow. The Parties agreed that they conducted a condition inspection of the rental unit at the start of the tenancy and that the Landlords gave the Tenants a copy of the condition inspection report ("CIR"). They also agreed that they inspected the condition of the rental unit at the end of the tenancy.

The Landlords submitted a monetary order worksheet, from which we took their claims for discussion in the hearing.

	Receipt/Estimate From	For	Amount
1	Estimate from drywall company	Ceiling damage	\$350.00 – \$500.00
2	Cleaning company	Move out clean	\$500.00
3	Cleaning company estimate		\$85.00/hr
4	Deadbolt Receipt	Replacing deadbolt	\$55.99
5	Our time/labour S.S. & A.T.	Cleaning and repairing	\$_____.
6	Cleaning supplies	Cleaning supplies	\$57.70
		Total monetary order claim	\$_____.

#1 DRYWALL ESTIMATE – CEILING DAMAGE → \$350.00 - \$500.00

The Landlords said there was a hole in the ceiling of the bedroom the size of a fist. They said:

When we did the inspection, we noticed it right away. Based on the size of the hole, I don't know how it occurred, a hole in the bedroom ceiling the size of a fist roughly. It was pretty obvious. I noticed that they tried to do a repair on it. Unfortunately, we would have been better off if they asked if they should repair it. These were our first renters in our brand-new house, so to see it looking pretty rough, with a bad looking finish on it that didn't match the quality and the finish, the expectation wasn't met. So, we advised them that it's not repaired properly. We argued. We had the original drywallers come in and do it properly. It's invisible. We attached the receipt. There were also over a dozen small holes in addition to that. I don't know where they would have come from, but the big one is the receipt. The drywaller took care of all the random little ones, too.

The Landlords submitted a payment receipt from a local drywall company for \$420.00.

The Tenants said:

The little holes were little thumb tacks that we filled in ourselves. It's not visible to the naked eye. There was no hole, but we were hanging photos up and some of the paint – a piece of the popcorn ceiling came out. There was no damage to the drywall. It was said that it was six inches in diameter and the size of the fist. There was no hole, just what we fixed with some popcorn ceiling material.

All we did was put thumb tacks up to hang something from ceiling. When we took them out, the popcorn ceiling was on there. We applied it, it matched it up and there was no damage to the drywall. There was no damage or holes in the roof, not the case at all. If there was actual damage, I would have no problems admitting that and paying for it.

The photos – they accurately depict how the roof looks – you can't really see anything. You can see that it's the popcorn ceiling repair. It matches up with the roof. You can faintly see it, but no damage to the drywall; I'm not sure why they got a drywall repairer . . . They said there were 12 other holes that they didn't include in evidence. Just some paint missing, and we put popcorn ceiling on it.

The Landlords submitted photographs of a bedroom ceiling with a "popcorn" finish. The

“before” picture looks like a large stain with a smaller stain on one side of it. The second photo submitted looks like a close up of a normal ceiling with this popcorn finish.

The Landlords said:

It sounds - we had a similar debate about this while they were in the suite – it’s difficult getting on the same page. There’s a gap in our perceptions on what we think is an acceptable repair job. Look at the photos – it’s a major area that was completely destroyed. However it was claimed it happened is kind of irrelevant; I wasn’t there when it happened. The end result, there was a repair needed to a significant area. The drywaller had to come in and cut out that area and re-texture it. The perceptions that exist sometimes is that texture is texture, but it’s not. And when it’s a brand-new house and you’re putting things on the ceiling. The first time you should stop.

#2 MOVE OUT CLEAN → \$500.00

The Landlords said that the amount claimed in this matter arose from averaging quotes they said they obtained. However, they said: “We chose to do the work ourselves and it took us a day and a half.”

In answer to how they arrived at \$500.00 claim, they said they obtained quotes from companies around town and that this was the average of the quotes, which they said were based on a typical move-out clean of a two-bedroom suite with a small bathroom.

The Landlords submitted photographs to illustrate that the Tenants left the rental unit unclean at the end of the tenancy. I found that these photographs showed the following:

- Window and sills: ► looks reasonably clean from this photograph;
- Under sink: ► some dirt and debris that need cleaning;
- Kitchen sink: ► a lot of debris, and even a bottle lid covering the drain;
- Fridge water trough: ► dirty with what appears to be mould;
- Bathroom fan: ► dirty throughout;
- Garbage on patio: ► large, full, green garbage bag outside;
- Sticky floors: ► close-up of what looks to be small liquid drips on the floor;
- Floor dirty: ► a small pile of dust and debris beside a broom;
- Behind stove: ► not swept;
- Side of stove: ► crumbs and dirt to be cleaned.

The Tenants said:

Generally, we did a thorough cleaning, and we think we did a good job. We spent quite a bit of time doing it. They said they spent a day and a half cleaning the suite. It doesn't take a day and a half from a professional cleaner.

They showed a photo of the kitchen stove with some crumbs on the side. We didn't want to damage anything so didn't pull out appliances.

We offered them a thorough cleaning. We said we would be happy to come back when convenient. And they would have to hire multiple companies, and they wouldn't allow us to clean.

The Landlords said:

We had to get 'multiple companies'? They had made the suggestion to come back, but then we began discussing other matters and we weren't nearing getting on the same page per our expectations versus theirs. We started talking about the number of hairs in the microwave – only one and that's not a big deal. There are multiple there and even one wasn't reasonable. Even if they came back to clean, I didn't expect that it would be any better. There was no acknowledgement of even one hair being bad, because the next renter wouldn't want to see that. If there was some admission.... I did go back to the door when they were in there. I said I have some suggestions to make it work. At that point, I was on the verge of saying let's do that, but [D.O.] said get out of here. In term of the amount of time to clean it, it's irrelevant – the amount is not based on an hourly rate that we were working. We only charged you based on the average of the quotes we got. If we were charging an hourly rate it would have been a lot more.

You can see from photos – major sticky spots on the floor, bathroom not cleaned at all. You can see in photos taken that day. It was riddled throughout suite. If we had submitted all those pictures, there would have been literally hundreds.

The Tenants said:

Basically, they're exaggerating on the cleanliness of the place a lot. We did a thorough clean. They wouldn't allow us to come in or take pictures; we didn't know what went on afterwards ... We weren't disgusting, filthy people. We were only there for six months. They're exaggerating everything.

As for the floors that they said were sticky – it was from the mud of them walking in during the move-out inspection. And for water trough – black mould - we were not told that this piece was removable. So that's why it was not cleaned. Also, a photo of a stainless-steel fridge you can see a little stuff on it, but that was the original plastic packaging that we weren't able to remove. We took it off prior to moving in. That's not damage, but glue from original packaging.

#3 CLEANING → \$85.00/hour

The Landlords said that this was not a separate claim, but just an example of one of the quotes they received from a cleaning company.

#4 REPLACING DEADBOLT → \$55.99

The Landlords said:

We provided them the keys and the keys they returned were copies, not the original, so we didn't know if they had kept a key. For our own safety and the safety of other renters it had to be swapped out.

The Landlords submitted a receipt for having purchased a deadbolt at a national hardware retailer that came to \$55.99.

The Tenants said:

We had just lost one of the keys, so we had it replaced, since we had just one original key left. People lose keys all the time; we didn't have another secret copy made. We brought back the keys we had, since that's what they requested.

The Landlords said:

It's just different perceptions on things. It would have been nice to go around and have complete faith not to worry that no one else has a key for my new suite. We just can't do that. Even if the key was lost in good faith. Another copy was made; it's not enough to go on for the next renter. They need that assurance that these are the only keys and that no one else has access to their suite. It might be a deal breaker. We'll take your word, but if it was lost outside and some kids find it, and help themselves into our new renter's suite.... Even if lost, not knowing where it is presents a risk. It is inevitable and disappointing and frustrating, but it

had to be replaced.

The Tenant said that the Landlord was "...just exaggerating on the situation again."

#5 OUR TIME – CLEANING AND REPAIR → \$ [no amount claimed]

In the hearing, the Landlords said:

When we called into RTB, they said to put that in as a line item, without a line item, but as an acknowledgement of a lot of our time spent doing clean up, repairs, fixing things.

The Tenants said:

I guess that line would cover the \$500.00 for their cleaning, which is fine, if you want to make that number up for yourself. I'm not sure what things there were to fix up.

We also offered to come back in and clean anything that they thought was not up to par, and they refused to let us do that. How it would cost them \$500.00 to clean, when we cleaned it properly? I don't see where the \$500.00 came from.

The Landlord said:

This is just a line item to acknowledge time and effort to do the work. We chose to do it ourselves due to Covid. . . chose to do it ourselves, but the RTB told us to get different quotes, and quote it as if we were a professional company.

#6 CLEANING SUPPLIES → \$57.70

The Landlords said that this claim applies to the cleaning products they bought to clean the rental unit. They said they could not remember how much was left over after the cleaning was complete. They said:

There were also other costs like lightbulbs, closed door sliders broken, fill in the wall by the laundry room that was scraped up and damaged. Not all of the repair costs are in there, but that was for things like that.

The Tenants said:

Again, these costs could have been saved – 24 counts of wet jet refills? We offered to do it again; we could have saved you the time. The damage is all wear and tear, including the dents that was smaller than the size of a nickel – a dent in the fridge. I just don't think it was necessary. Nothing was damaged within the suite in our opinions, and in our family members' opinions that came over, because I wanted an honest look before [the Landlords] came in.

We basically feel like they didn't need to keep our security deposit and go through all this. We stayed all day packing and the next day cleaning the whole place. Anyone can nit pick tiny little details. It was pretty clean, the whole unit, with some wear and tear, as expected.

The Landlords submitted a receipt from a national grocery store chain, which included seven cleaning products, which added up to \$52.25, not \$57.70.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

Before the Parties testified, I advised them on how I would analyze the evidence presented to me. I told them that a party who applies for compensation against another party has the burden of proving their claim on a balance of probabilities. Policy Guideline 16 sets out a four-part test that an applicant must prove in establishing a monetary claim. In this case, the Landlords must prove:

1. That the Tenants violated the Act, regulations, or tenancy agreement;
2. That the violation caused the Landlords to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the Landlords did what was reasonable to minimize the damage or loss.

("Test")

#1 DRYWALL ESTIMATE – CEILING DAMAGE → \$350 - \$500

Landlords' and tenants' rights and obligations for repairs are set out in sections 32 and 37 of the Act. Section 32 states:

Landlord and tenant obligations to repair and maintain

32 (1) A landlord must provide and maintain residential property in a state of decoration and repair that

(a) complies with the health, safety and housing standards required by law, and

(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

(2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

(3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

(4) A tenant is not required to make repairs for reasonable wear and tear.

(5) A landlord's obligations under subsection (1) (a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

[emphasis added]

Section 37 of the Act states:

Leaving the rental unit at the end of a tenancy

37 (2) When a tenant vacates a rental unit, the tenant must

(a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and

...

I find that the Landlord has provided sufficient evidence to establish that the Tenants damaged the ceiling of the bedroom, and that it is more than mere wear and tear. I find that the before and after photographs show an insufficient repair job on a one-year old ceiling by the Tenants. I find that the Tenants' attempt to repair it indicates that they were aware of the damage they caused. I find the Landlords were entitled to have the ceiling repaired properly, which I find that they did. I, therefore, award the Landlords with recovery from the Tenants of the cost of the ceiling repair of **\$420.00**, as set out in the payment receipt before me, and pursuant to section 67 of the Act.

#2 MOVE OUT CLEAN → \$500.00

Again, section 37 of the Act states:

Leaving the rental unit at the end of a tenancy

37 (2) When a tenant vacates a rental unit, the tenant must

(a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and

...

Based on the Parties' testimony and the photographs that were submitted for this category, I find that the Landlords have overstated the amount of cleaning needed in this rental unit. The Landlords did not submit examples of the estimates they received from cleaning companies. Given my experience as an arbitrator, I am aware that a standard rate of cleaning is \$25.00 to \$30.00 per hour. I find it is appropriate to submit a cleaning claim on the basis of an hourly rate. If the Landlords had charged \$27.50 per hour and they had worked for seven hours one day and 3½ the next for ten and a half hours in total, the amount claimed would come to \$288.75.

However, I find that 10½ hours to clean this size of rental unit with the amount of cleaning needed, as evidenced by the photographs submitted, is an overstatement. I find on the basis of common sense and ordinary human experience that it should take an average of an hour to clean each room, with those rooms consisting of the (i) kitchen, (ii) bathroom, (iii) and (iv) each of two bedrooms, (v) living room, and (vi) hallways and closets. This amounts to six hours of cleaning, which I find to be reasonable in the circumstances. Accordingly, I find that a reasonable award for this claim is 6 hours x \$27.50 = \$165.00. I, therefore, award the Landlords with **\$165.00** for cleaning the rental unit.

#3 CLEANING → \$85.00/hour

I find from the testimony that this claim is addressed in the last matter analyzed; therefore, I dismiss this without leave to reapply.

#4 REPLACING DEADBOLT → \$55.99

Section 25 of the Act sets out landlords' and tenants' rights and obligations surrounding

rekeying locks for rental units. Section 25 states:

Rekeying locks for new tenants

- 25** (1) At the request of a tenant at the start of a new tenancy, the landlord must
- (a) rekey or otherwise alter the locks so that keys or other means of access given to the previous tenant do not give access to the rental unit, and
 - (b) pay all costs associated with the changes under paragraph (a).
- (2) If the landlord already complied with subsection (1) (a) and (b) at the end of the previous tenancy, the landlord need not do so again.

People have the ability to copy most keys; therefore, if a tenant returns the rental unit keys to the landlord at the end of the a tenancy, it does not mean that the tenant has not had more keys copied for the residential property. Regardless, according to Policy Guideline #1, “The tenant must return all keys at the end of the tenancy, including those he or she had cut at his or her own expense.”

However, as set out in section 25 of the Act, it is a landlord’s responsibility to re-key locks to the rental unit, if they are so requested by subsequent tenant(s). As a result, I find that the Landlord does not have the authority under the Act to charge the Tenant for the cost to re-key the rental unit; therefore, I dismiss this claim without leave to reapply.

#5 OUR TIME – CLEANING AND REPAIR → \$

Based on the Landlords’ explanation of this claim, I find that it refers to the same labour involved in cleaning the rental unit, which was addressed in item #2 above. I, therefore, dismiss this claim without leave to reapply.

#6 CLEANING SUPPLIES → \$57.70

The Landlords are claiming for the costs of seven cleaning products, including paper towels and a heavy-duty cloth. I find it unlikely on a balance of probabilities that the Landlords used up all of these products cleaning the rental unit, given the state of cleanliness I have found it in. Further, I find that the Landlords requested more than the total of the cleaning products listed in the receipt. As the receipt did not have a total on it, I added the items up myself twice and it came to \$52.25, not \$57.70.

Regardless, I find that the Landlords would have used some of the cleaning products for

their work cleaning the rental unit; however, I find it is more likely than not that there would have been a reasonable amount of the cleaning product left after they were finished.

I award the Landlords a nominal amount of half of the cost of the cleaning products, which I find is on the high side, for a total of **\$26.13** for cleaning products, pursuant to Policy Guideline #16.

Summary and Set Off

I find that this Application meets the criteria under section 72(2)(b) of the Act to be offset against the Tenants' security deposit of \$750.00 in partial satisfaction of the Landlords' monetary claim. I also award the Landlords with recovery of the \$100.00 Application filing fee, pursuant to section 72 of the Act.

	Receipt/Estimate From	For	Amount
1	Estimate from drywall company	Ceiling damage	\$420.00
2	Cleaning company	Move out clean	\$165.00
3	Cleaning company		n/a
4	Deadbolt Receipt	Replacing deadbolt	\$0.00
5	Our time/labour S.S. & A.T.	Cleaning and repairing	\$0.00
6	Cleaning supplies	Cleaning supplies	\$26.13
		Sub-Total	\$611.13
	Residential Tenancy Branch	Plus, Application filing fee	\$100.00
		Less Tenants' security deposit	\$750.00
		Total monetary order claim	(\$38.87)

The Landlords' awards for their claims amount to \$611.13 pursuant to section 67 of the Act, plus the \$100.00 Application filing fee for a total award of **\$711.13**. When this award is set off against the Tenants' \$750.00 security deposit, the Landlords end up owing the Tenants \$38.87, the remainder of the Tenants' security deposit. I award the Tenants a Monetary Order from the Landlords in the amount of **\$38.87** pursuant to section 67 of the Act.

Conclusion

The Landlords are partially successful in their claims for compensation from the Tenants in the amount of \$611.13, plus recovery of the \$100.00 Application filing fee. The Landlords did not provide sufficient evidence to meet their burden of proof in the other claims.

The Landlords are authorized to retain \$711.13 of the Tenants' \$750.00 security deposit in full satisfaction of the Landlords' awards. The Landlords are required to pay the remaining \$38.87 of the security deposit to the Tenants, as soon as possible.

The Tenants are granted a Monetary Order of **\$38.87** from the Landlords. This Order must be served on the Landlords by the Tenants and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: November 17, 2020

Residential Tenancy Branch