



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FFL, MNRL, MNDL-S

### Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution, made on October 8, 2020 (the "Application"). The Landlords applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

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

The Landlord D.E. and the Tenants attended the hearing at the appointed date and time. At the beginning of the hearing, the parties acknowledged receipt of their respective application packages 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 a monetary order for unpaid rent, pursuant to Section 67 of the *Act*?
3. Are the Landlords entitled to retaining the security deposit, pursuant to Section 38, and 72 of the *Act*?
4. Are the Landlords entitled to an order granting recovery of the filing fee, pursuant to Section 72 of the *Act*?

### Background and Evidence

The Landlord stated that the tenancy began on June 6, 2020 once the Tenants moved some of their items in the rental unit. The Tenants stated that the tenancy began on June 10, 2020 once they officially moved in and began to reside in the rental unit. A copy of the tenancy agreement was submitted in documentary evidence which indicates that the tenancy was meant to commence on June 15, 2020.

The parties agreed that the Tenants were required to pay rent in the amount of \$1,500.00 each month to the Landlords. The Landlord stated that rent was due on the 6<sup>th</sup> day of each month. The Tenants stated that the rent was due and paid on the 10<sup>th</sup> day of each month throughout the tenancy. The Tenancy agreement does not indicate what day rent is due.

The parties agreed that the Tenants paid a security deposit in the amount of \$750.00 which the Landlords continue to hold. The parties agreed that the tenancy ended on October 1, 2020.

The Landlords submitted three monetary work sheets in their documentary evidence. Some items were duplicated amongst the monetary worksheets. The monetary claims that are being pursued by the Landlords are as follows;

The Landlords are claiming \$24.55 and \$31.96 for sending the Tenants documents via Registered Mail, \$27.99 for preparing colour copies of their documentary evidence, \$27.01 for other photocopies in preparation for the hearing. During the hearing the Landlord was notified that these costs are not recoverable under the *Act*, therefore, these claims were dismissed without leave to reapply.

The Landlords are claiming \$110.00 for carpet cleaning as there were stains found on the carpet at the end of the tenancy. The Tenants stated that they cleaned the carpets, but not professionally. The Landlords provided picture and receipts in support.

The Landlords are claiming \$150.00 for general cleaning of the rental unit. The Tenants stated that they left the rental unit reasonably clean. Both parties provided pictures in support. The Tenants stated that the Landlords did not respond to their requests to conduct a move out inspection of the rental unit. The Tenants provided a copy of their emails requesting to schedule an inspection.

The Landlords are claiming \$21.00 for deck cleaner and a further \$12.40 for other cleaning supplies. The Landlord stated that the Tenants left a rust stain on the deck. The Landlords provided receipts in support. The Tenants disagreed that the rental unit required further cleaning.

The Landlords are claiming for \$1.40 for a paint brush as the rental unit required some touch up work done to the walls. The Landlord stated that they had extra paint, therefore, they are not claiming for paint.

The Landlords are claiming \$150.00 to repair the deck which the Landlord stated was damaged by the Tenants during the tenancy. The Landlord stated that she has not yet repaired the deck.

The Landlords are claiming \$20.15 to replace light bulbs in the rental unit as some of the bulbs needed replacement. The Landlords provided pictures and a receipt in support.

The Landlords are claiming \$365.75 which represents the balance of rent owing to the Landlords for the last month of the tenancy. The Landlord stated that they only received \$1,134.25 from the Tenants for September 2020. The Tenants stated that the Landlords accepted their notice to end tenancy and also agreed to a reduced amount of rent for moving out early. The Landlord stated that there was a miscommunication between them and that the Landlords were not sure what the Tenants meant with respect to paying reduced rent. The Landlord stated that once she was paid the reduced amount, she inquired with the Tenants as to why they did not pay the full amount of rent for the last month of the tenancy. The parties provided the email exchange between them in support.

The Landlords are also claiming \$1,500.00 for the month of October 2020 rent as the Tenants did not provide adequate notice to end tenancy. The parties agreed that the Tenants provided their notice to end tenancy to the Landlords on September 7, 2020. The Landlord stated that the notice was a day late as rent is due on the 6<sup>th</sup> day of each

month. The Tenants stated that rent is due on the 10<sup>th</sup> day of each month, therefore, their notice was provided to the Landlords early.

Lastly, the Landlords were claiming for the replacement cost of a new tub surround, however, during the hearing, the Landlord withdrew this claim.

### 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.

Section 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**

(b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

The Landlords are claiming \$110.00 for carpet cleaning as there were stains found on the carpet at the end of the tenancy. I find that the Landlords have provided sufficient evidence to demonstrate that the carpet in the rental unit required further cleaning, therefore, I find that the Landlord are entitled to compensation in the amount of **\$110.00**.

The Landlords are claiming \$150.00 for general cleaning of the rental unit. The Landlords are also claiming \$21.00 for deck cleaner and a further \$12.40 for other cleaning supplies. The Tenants stated that they left the rental unit reasonably clean. Each party provided pictures of the condition of the rental unit at the end of the tenancy. I find that the Landlord provided insufficient evidence to demonstrate that the rental unit was not left reasonably clean by the Tenants. As such, I dismiss these claims without leave to reapply.

The Landlords are claiming for \$1.40 for a paint brush as the rental unit required some touch up work done to the walls. The Landlords are also claiming \$20.15 to replace light bulbs in the rental unit. I find that the Landlords provided sufficient evidence to demonstrate that the rental unit walls required some touch up painting and that the rental unit required light bulbs to be replaced. As such, I find that the Landlords are entitled to compensation in the amount of **\$21.55**.

The Landlords are claiming \$150.00 to repair the deck which the Landlord stated was damaged by the Tenants during the tenancy. The Landlord stated that she has not yet repaired the deck. As the Landlords have not yet repaired the deck, I find that they have not yet incurred a loss. As such, I dismiss this claim without leave to reapply.

The Landlords are claiming \$365.75 which represents the balance of rent owing to the Landlords for the last month of the tenancy. The Landlord stated that they only received \$1,134.25 from the Tenants for September 2020. The Tenants stated that the Landlords accepted their notice to end tenancy and also agreed to a reduced amount of rent for moving out early. The Landlord stated that there was a miscommunication between them and that the Landlords were not sure what the Tenants meant with respect to paying reduced rent. I find that the Tenant provided insufficient evidence to demonstrate that they were entitled to a rent reduction. I accept that the Landlords after being paid the reduced amount of rent, inquired with the Tenants as to why they paid the reduced

amount. I find that the Landlords are entitled to the remaining portion of the last month's rent in the amount of **\$365.75**.

The Landlords are also claiming \$1,500.00 for the month of October 2020 as the Tenants did not provide adequate notice to end tenancy. The parties agreed that the Tenants provided their notice to end tenancy to the Landlords on September 7, 2020. The Landlord stated that the notice was a day late as rent is due on the 6<sup>th</sup> day of each month. The Tenants stated that rent is due on the 10<sup>th</sup> day of each month, therefore, their notice was provided to the Landlords early.

Section 45 of the Act states; A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that:

- (a) is not earlier than one month after the date the landlord receives the notice, and
- (b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

In this case, I find that the tenancy agreement does not specify when rent is due to be paid to the Landlords. As such, I accept that the rent was paid on the 10<sup>th</sup> day of each month throughout the tenancy. I find that the Tenants provided the Landlord with sufficient notice to end tenancy pursuant to Section 45 of the Act. As such, I dismiss this 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 \$597.30 from the \$750.00 security deposit held in satisfaction of the claim ( $\$750.00 - \$597.30 = \$152.70$ ).

Pursuant to section 67 of the Act, I find the Tenants are entitled to a monetary order in the amount of \$152.70, which represents the remaining balance of their security deposit less the previously mentioned deductions.

### Conclusion

The Landlords have established an entitlement to monetary compensation in the amount of \$597.30 which has been deducted from the security deposit. The Tenants are granted a monetary order in the amount of \$152.70 which represents the remaining balance of the Tenants' security deposit. 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: February 18, 2021

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Residential Tenancy Branch