



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 0785303 BC Ltd.  
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes      MNDL-S MNDCL-S FFL

### Introduction

In this dispute the landlord seeks compensation pursuant to sections 67 and 72 of the *Residential Tenancy Act* ("Act").

The parties (two agents for the landlord and both tenants) attended the hearing on March 15, 2021 which was held by teleconference.

There were some minor service issues raised by the landlord (apparently the tenants served their evidence to the wrong address), but the landlord's agent confirmed that they received the evidence and that they had sufficient opportunity to review the evidence in advance of the hearing.

### Issue

Is the landlord entitled to compensation?

### Background and Evidence

Relevant evidence, complying with the *Rules of Procedure*, was carefully considered in reaching this decision. Only relevant oral and documentary evidence needed to resolve the specific issue of this dispute, and to explain the decision, is reproduced below.

The tenancy began on May 1, 2012 and ended on September 30, 2020. The tenants paid a security deposit of \$655.00 which the landlord holds in trust pending the outcome of this application.

The landlord seeks compensation for each of the following items: Carpet cleaning \$373.80; Painting and cleaning \$275.00; Vanity set \$402.08; Flooring \$ 91.97; Supply

lamine \$926.73; Supply and install carpet \$945.96; Vanity lights, waste food \$120.80; Stainless connectors, mirror \$390.44; Vanity, white sealant, kitchen \$206.51; Toilet and kitchen faucet \$275.52; Wood cut blade, glue, flooring \$458.27; Faucet and paint \$163.59; ABS pipe, knobs, adapter \$52.49; Key cut \$6.99; Key cut (second claim) \$6.99; Repairs (1) \$778.75; Repairs (2) \$612.50; Repairs (3) \$472.50; and, Repairs (4) \$435.00. It should be noted that some of the description of these items was cut-off in the Monetary Order Worksheet pdf, hence the occasional truncated description. Copies of invoices and receipts for the various items claimed were submitted into evidence.

In addition, the landlord seeks \$2,192.50 for loss of rental income because “the suite was not in an inhabitable [*sic*] condition” to rent. (See landlord’s application.) Finally, the landlord seeks \$100.00 to cover the cost of the application filing fee.

The landlord’s agent (hereafter “landlord”) gave evidence that when the tenants moved in, back in 2012, the rental unit had been fully renovated. The rental unit is in a multi-rental unit property that was built in 1968. The landlord testified that they seek compensation for damage and cleaning costs caused by the tenants.

The landlord referred to several photos of the rental unit that were submitted into evidence, along with a copy of a condition inspection report. For each of the claims listed above, the landlord briefly spoke to each matter, including such details as: the need for new flooring, painting, baseboards being chipped and dinged, a patio that was never cleaned, bifold doors that needed replacing, a vanity which had been pulled away from the wall, and the loss of rent. The landlord argued that the damage was not caused by reasonable wear and tear.

The tenants gave a prepared statement as their oral submission and noted that during the eight-and-a-half years of the tenancy, they raised two children. They argued that there is no basis for the landlord’s claim and that the landlord is “asking for the Moon in order to raise money for renovations.”

The tenants further argued that the damage for which the landlord seeks compensation is entirely consistent with reasonable wear and tear. They referred to an issue with mice in the building (2015-2018) and with the “new” carpets being rather cheap. The walls were unfinished upon moving in and the paint peeled. Moreover, the tenants remarked that they believe the landlord’s claim to be retribution because the tenants did not consent to the landlord retaining their security deposit at the end of the tenancy. Both tenants also argued that the landlord’s credibility is in issue and spoke of what they called illegal rent increases.

## Analysis

Section 37(2) of the Act states that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

Section 7 of the Act states that if a party does not comply with the Act, the regulations or a tenancy agreement, the non-complying party must compensate the other for damage or loss that results. Further, a party claiming compensation for damage or loss that results from the other's non-compliance must do whatever is reasonable to minimize the damage or loss.

The condition inspection report, which was completed at the start and the end of the tenancy, lists various parts of the rental unit as being in "Fair" condition, though many parts of the rental unit are listed as either "Good" or "Fair" or "Dirty." There is on page two of the report a description of "carpet needs to be replaced" and "extensive amount of wear and tear" and "suite will have to be repainted entirely" and so forth. However, the tenant did not sign this "acknowledgement" section of the report.

In addition to the condition inspection report, the landlord submitted a total of thirty photographs of various parts of the rental unit.

Having carefully looked at the photographs, I am not persuaded that the damage to the rental unit, as claimed by the landlord, is anything other than that which is reasonable wear and tear. Reasonable wear and tear refers to natural deterioration that occurs due to aging and other natural forces, where the tenant has used the premises in a reasonable fashion.

This tenancy lasted almost a decade, and in that time the tenants raised a young family. The dings and dents on the wall, the chips to the framing around the door, deterioration of the baseboard, and the worn and ripped carpet, are all, I find, entirely consistent with reasonable wear and tear. It is unreasonable, I find, for a landlord to expect such a rental unit to be returned in as pristine a condition as when a tenant first finds it, 8 and a half years later.

For this reason, I am unable to find, subject to one exception addressed below, that the tenants breached section 37(2) of the Act. Accordingly, there can be no claim for compensation flowing from the absence of any breach of the Act.

However, I do find that the missing doors cannot be explained by reasonable wear and tear. If a tenant removes a door inside a rental unit then that door must be replaced. For this specific item I find that the tenants breached the Act and must compensate the landlord. However, I am unable to locate any reference to the cost to replace the doors. As such, I award the landlord nominal damages of \$200.00 for this aspect of their claim.

Further, having carefully reviewed the photographs submitted, and comparing them to the condition inspection report, along with the additional documentary evidence submitted by the parties, I am not persuaded by the landlord's argument that the rental unit was in such a state as to render it uninhabitable to rent it to a new tenant.

There are, I must add, a few peculiar matters about this case which raise serious doubts as to the veracity of the landlord's claim. For example, the faucets and taps are described as "dirty" or fair" in the condition inspection report, so it is unusual why they would need to be replaced. Moreover, many of the receipts for repairs are annotated with the word "reno" – that is, renovations – which suggest that the landlord had full intentions to renovate the rental unit, versus simply repairing reasonable wear and tear. A tenant is not responsible for paying a landlord thousands of dollars so that the landlord may renovate a rental unit. Rather, they are only liable for paying for repairs that are not reasonable wear and tear.

Taking into consideration all the oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has not met the onus of proving their claim for compensation, with the sole exception of a nominal damage award of \$200.00. The remainder of the landlord's application is dismissed without leave to reapply.

Section 38(4)(b) of the Act permits a landlord to retain an amount from a security or pet damage deposit if "after the end of the tenancy, the director orders that the landlord may retain the amount." As such, I order that the landlord to retain \$200.00 of the tenants' security deposit in satisfaction of the nominal damage award granted.

Given that the landlord was otherwise unsuccessful in this application I decline to grant recovery of the filing fee under section 72 of the Act.

The landlord is ordered to return \$455.00 of the tenants' security within fifteen days of receiving this decision. A monetary order is issued in conjunction with this decision, to the tenants.

Conclusion

I grant the landlord's application, in part, and authorize the landlord to retain \$200.00 of the tenants' security deposit pursuant to section 38(4)(b) of the Act. The remainder of the landlord's application is dismissed without leave to reapply.

I grant the tenants a monetary order in the amount of \$455.00, which must be served on the landlord. If the landlord fails to pay the tenants the amount owed, the tenants may file and enforce the order in the Provincial Court of British Columbia.

This decision is final and binding, except where otherwise permitted by the Act, and is made on authority delegated to me under section 9.1(1) of the Act.

Dated: March 15, 2021

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Residential Tenancy Branch