



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDL-S MNRL-S FFL

### Introduction

The landlords applied for compensation under sections 67 and 72 of the *Residential Tenancy Act* ("Act").

An arbitration hearing was held on March 29, 2021 at 1:30 PM and one of the landlords attended the hearing. The tenants did not attend the hearing, which ended at 1:49 PM.

Based on the landlord's sworn testimony and documentary evidence, I am satisfied and do find based on evidence provided that the tenants were served with the Notice of Dispute Resolution Proceeding in compliance with Act and the *Rules of Procedure*.

### Issue

Are the landlords 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 October 1, 2019 and ended on November 28, 2020. Monthly rent was \$4,400.00 and the tenants paid a security deposit of \$2,200.00 and a pet damage deposit of \$2,200.00. A copy of the written tenancy agreement was in evidence.

The landlords seek \$9,511.11 in compensation for unpaid rent and \$3,454.63 in compensation for costs (and anticipated, estimated costs) related to the repairs and cleaning of the rental unit.

A revised Monetary Order Worksheet was submitted into evidence. While I will not reproduce each line item on this worksheet, the landlord confirmed, under oath, that the various amounts listed were correct. The landlord gave testimony regarding a few of the matters relating to this claim. Finally, I note that submitted into evidence by the landlords were copies of the Condition Inspection Report, invoices and receipts and estimates for various costs, and several photographs of the rental unit.

### Analysis

Section 7 of the Act states that if a party does not comply with the Act then 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 standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

### **Claim for Unpaid Rent**

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, regulations or the tenancy agreement, unless the tenant has a right under the Act to deduct the rent.

In this dispute, the tenants did not pay some of the rent that was due, and at the end of the tenancy were in arrears in the amount of \$9,511.11. Taking into consideration all the undisputed oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlords have met the onus of proving their claim for compensation for unpaid rent.

### **Claim for Repair and Cleaning Costs**

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

In this dispute, the landlord gave evidence to various items that were damaged and not cleaned, the landlord submitted a properly completed Condition Inspection Report, and the landlord submitted various photographs of the rental unit.

Taking into consideration all the undisputed oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlords have met the onus of proving their claim for \$3,454.63.

### **Claim for Filing Fee**

Section 72(1) of the Act permits an arbitrator to order payment of a fee under section 59(2)(c) by one party in a dispute to another party. A successful party is generally entitled to recover the cost of the filing fee. As the landlords were successful in their application, I grant their claim for the \$100.00 filing fee.

### **Summary of Award, Retention of Deposits, and Monetary Order**

The landlords are awarded total compensation in the amount of \$13,065.74.

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 and authorize the landlords to retain the tenants’ security and pet damage deposits of \$4,400.00 in partial satisfaction of the award.

The balance of the amount awarded, after deducting the security and pet damage deposit amounts, is \$8,665.74. A monetary order in this amount is issued to the landlords, in conjunction with this decision. As I explained to the landlord, it is the landlords’ responsibility to serve a copy of the monetary order on the tenants in order for the monetary order to be enforceable in court.

### **Conclusion**

I hereby grant the landlords’ application.

The landlords are authorized, pursuant to section 38(4)(b) of the Act, to retain the tenants’ security and pet damage deposits, which total \$4,400.00.

I grant the landlords a monetary order in the amount of \$8,665.74, which must be served on the tenants. If the tenants fail to pay the landlords the amount owed, the landlords may file and enforce the order in the Provincial Court of British Columbia (Small Claims Court).

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

Dated: March 29, 2021

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Residential Tenancy Branch