



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDL, FFL

### Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution, made on December 2, 2020 (the "Application"). The Landlords applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage to the unit, site, or property; and
- an order granting recovery of the filing fee.

The Landlords attended the hearing at the appointed date and time. K.S. attended the hearing briefly to notify that the Tenant had suffered a panic attack and would be unable to attend the hearing. K.S. stated that she was at work and would not be in a position to represent the Tenant during the hearing. K.S. stated that the Tenant had submitted a Doctors note in support before she disconnected from the hearing.

The Landlords stated that they sent their Application and documentary evidence to the Tenant by Registered Mail on December 11<sup>th</sup>, 2020, however, the package was returned to the Landlords as unclaimed. The Landlords stated that they decided to attend the Tenant's place of business at which point they were able to serve the Tenant in person on January 4, 2021. As such, I find that the above-mentioned documents were sufficiently served and deemed received by the Tenant on January 4, 2021 in accordance with Section 89 and 90 of the Act.

### Preliminary Matters

On March 16, 2021 the Tenant submitted a request to the Residential Tenancy Branch to change the format of the hearing. The Tenant had requested a hearing be conducted either in person or by written submissions. The Tenant submitted that they were unable to attend the hearing in the format scheduled because of physical or mental disability.

The Tenant's request was denied as the Tenant did not submit their request within the appropriate timelines (within three days after receiving the Landlord's Application).

At the start of the hearing, K.S. indicated that she was not representing the Tenant, but was only relaying the message that the Tenant would not be in attendance. The Tenant submitted a Doctors note on the day of the hearing which indicates that the Tenant would be unable to attend the hearing due to medical reasons and requested an adjournment.

According to the Residential Tenancy Branch Rules of Procedure (the "Rule of Procedure) 7.9, without restricting the authority of the arbitrator to consider other factors, the arbitrator will consider the following when allowing or disallowing a party's request for an adjournment:

- *the oral or written submissions of the parties;*
- *the likelihood of the adjournment resulting in a resolution;*
- *the degree to which the need for the adjournment arises out of the intentional actions or neglect of the party seeking the adjournment;*
- *whether the adjournment is required to provide a fair opportunity for a party to be heard; and*
- *the possible prejudice to each party.*

In this case, I find that the Tenant provided insufficient evidence to demonstrate why they were unable make prior arrangements to assign a representative or an advocate to assist the Tenant or to take part in the hearing on behalf of the Tenant. I find that the Tenant, after being served with the Landlord's Application on January 4, 2021, could have made these arrangements in advance of the hearing held on March 25, 2021.

The Landlords did not consent to an adjournment. The Landlords stated that the Tenant is attempting to delay and avoid the hearing. The Landlords stated that the Tenant is a business owner and has never displayed any difficulties in communicating with the Landlords throughout the tenancy.

I find that the Tenant provided no evidence to demonstrate any effort to seek assistance prior to the hearing. As such, I find that Tenant's inaction to secure an advocate or representative prior to the hearing was neglectful and therefore the adjournment will not be granted. The hearing will proceed as scheduled. K.S. did not take part in the hearing on behalf of the Tenant and disconnected from the call.

The Landlords 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 to the rental unit, site, or property, pursuant to Section 67 of the *Act*?
2. Are the Landlords entitled to an order granting recovery of the filing fee, pursuant to Section 72 of the *Act*?

### Background and Evidence

The Landlords stated that the tenancy started on August 1, 2018. During the tenancy, the Tenant was required to pay rent in the amount of \$2,500.00 which was due on the first day of each month. The Tenant paid a security deposit in the amount of \$1,250.00 which the Landlords continue to hold. The Landlords stated that the Tenant has not yet provided the Landlords with his forwarding address. The Landlords stated that the tenancy ended on October 31, 2020. The Landlords stated that they are retaining the Tenant's security deposit in relation to unpaid rent. As such, the Landlords have not applied the retain the Tenant's security deposit towards their monetary claims in relation to this Application.

The Landlords provided a monetary breakdown of their monetary claims which was provided in their Application. These claims have been outlined below;

The Landlords are claiming \$36.90 for a new doorknob to the rental unit. The Landlords stated that the Tenant did not return the keys at the end of the tenancy. As such, the Landlord felt it was necessary to change the lock to the rental unit. The Landlords provided a receipt in support.

The Landlords are claiming \$74.58 to replace a wall protector, spray nozzle, and blinds. The Landlords stated that there was a hole in the drywall as the Tenant removed the wall protector which prevents the door from contacting the wall behind it. The Landlords replaced the wall protector. The Landlords stated that the blinds were damaged and needed replacement. Also, the Landlords were required to replace the kitchen spray

nozzle as the Tenant damaged it and taped it with duct tape. The Landlords provided pictures and receipts in support.

The Landlords are claiming \$237.18 for paint, paint supplies, and new cabinet knobs. The Landlords stated that they were required to repair damaged walls throughout the rental unit. Furthermore, the Landlords stated that they had repainted the rental unit prior to the commencement of the tenancy. At the end of the tenancy, the Landlords discovered that the Tenants had painted over some walls and baseboards in a different colour without permission. As such, the Landlords were required to repaint the rental unit. The Landlords also had to replace some missing cabinet knobs. The Landlords provided receipts, and before and after pictures in support.

The Landlords are claiming a further \$258.86 for additional paint that was required to repaint the rental unit.

The Landlords are claiming \$65.89 for new toilet seats and towel hangers. The Landlords stated that the Tenant ripped off a toilet seat and they found another one cracked in the rental unit. Also, the Landlords found a towel rack ripped off the wall and damaged. The Landlords provided picture and receipts in support.

The Landlords are claiming \$26.30 for room transition strips and bolts to secure a bathroom sink. The Landlords stated that the transitions strips were broken and needed replacement. Furthermore, the Landlords found that the plumbing for the bathroom sink had been disconnected from the wall. The Landlords were required to secure the plumbing with bolts. The Landlords provided pictures and receipts in support.

The Landlords are claiming \$75.40 for fuel to run the errands to pickup supplied to repair the rental unit. The Landlords provided an estimate in support.

The Landlords are claiming \$55.91 for silicone to seal the bathroom sink which had been tampered with by the Tenant and also to replace the fireplace transition wood which had been damaged throughout the tenancy.

The Landlords are claiming \$5.60 for a washing machine ring and \$16.10 for a dryer vent. The Landlords stated that the Tenant damaged the laundry machine and dryer venting. The Landlords provided a receipt and pictures in support.

The Landlords are claiming \$24.35 for dump run to discard abandoned items left behind by the Tenant. The Landlords provided pictures and a receipt in support.

The Landlords are claiming \$25.63 for replacement light bulbs. The Landlords stated that there were several missing and burned out light bulbs in the rental unit at the end of the tenancy. The Landlords provided pictures and a receipt in support.

If successful, the Landlords are also seeking the return of the filing fee.

### Analysis

Based on the affirmed 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 Tenant. 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 Landlord did what was reasonable to minimize the damage or losses that were incurred.

According to the Residential Tenancy Policy Guideline 1; The tenant must maintain "reasonable health, cleanliness and sanitary standards" throughout the rental unit or site, and property or park. The tenant is generally responsible for paying cleaning costs where the property is left at the end of the tenancy in a condition that does not comply

with that standard. The tenant is also generally required to pay for repairs where damages are caused, either deliberately or as a result of neglect, by the tenant or his or her guest. The tenant is not responsible for reasonable wear and tear to the rental unit or site (the premises), or for cleaning to bring the premises to a higher standard than that set out in the *Residential Tenancy Act*.

The Landlords are claiming \$36.90 for a new doorknob to the rental unit. The Landlords stated that the Tenant did not return the keys to the Landlords at the end of the tenancy. I find that the Tenant was required to return the keys at the end of the tenancy. As such, I find the Landlords are entitled to monetary compensation in the amount of **\$36.90**.

The Landlords are claiming \$74.58 for wall protector, spray nozzle, and blinds. I find that the Landlords provided sufficient evidence to demonstrate that the Tenant damaged these items throughout the tenancy. As such, I find the Landlords are entitled to monetary compensation in the amount of **\$74.58**.

The Landlords are claiming \$237.18 for paint, paint supplies and new cabinet knobs. The Landlords are claiming a further \$258.86 for additional paint that was required to repaint the rental unit. I am satisfied based on the preponderance of evidence provided by the Landlords that they had repainted the rental unit before the start of the tenancy. I find that the rental unit required repairs to the walls and to be repainted at the end of the tenancy. As such, I find that the Landlords are entitled to monetary compensation for paint, supplied, and cabinet knobs for a combined amount of **\$496.04**.

The Landlords are claiming \$65.89 for new toilet seats and towel hangers. I find that the Landlords have provided sufficient evidence to demonstrate that these items were damaged during the tenancy. As such, I find that the Landlords are entitled to monetary compensation in the amount of **\$65.89**.

The Landlords are claiming \$26.30 for room transition strips and bolts to secure a bathroom sink. I find that the Landlords have provided sufficient evidence to demonstrate that these items were damaged during the tenancy. As such, I find that the Landlords are entitled to monetary compensation in the amount of **\$26.30**.

The Landlords are claiming \$75.40 for fuel to run the errands to pickup supplied to repair the rental unit. The Landlords provided an estimate in support. In this case, I find that the Landlords are not entitled to compensation for fuel cost as that is part of doing business as a Landlord which is not recoverable under the *Act*. As such, I dismiss this claim without leave to reapply.

The Landlords are claiming \$55.91 for silicone to seal the bathroom sink and also to replace the fireplace transition wood which had been damaged throughout the tenancy. I find that the Landlords have provided sufficient evidence to demonstrate that these items were damaged during the tenancy. As such, I find that the Landlords are entitled to monetary compensation in the amount of **\$55.91**.

The Landlords are claiming \$5.60 for a washing machine ring and \$16.10 for a dryer vent. I find that the Landlords have provided sufficient evidence to demonstrate that these items were damaged during the tenancy. As such, I find that the Landlords are entitled to monetary compensation in the amount of **\$21.70**.

The Landlords are claiming \$24.35 for dump run to discard abandoned items left behind by the Tenant. I find that the Landlords have provided sufficient evidence to demonstrate that the Tenant abandoned several items which required to be responsibly disposed of. As such, I find that the Landlords are entitled to monetary compensation in the amount of **\$24.35**.

The Landlords are claiming \$25.63 for replacement light bulbs. I find that the Landlords have provided sufficient evidence to demonstrate that the Tenant did not replace missing or burned out light bulbs at the end of the tenancy. As such, I find that the Landlords are entitled to monetary compensation in the amount of **\$25.63**.

As the Landlord was partially successful with the Application, I find that they are entitled to the return of the **\$100.00** filing fee paid to make the Application.

Pursuant to section 67 of the Act, I find the Landlords are entitled to a monetary order in the amount of \$927.30.

### Conclusion

The Landlords have established an entitlement to monetary compensation in the amount of **\$927.30**. The order should be served to the Tenant 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: April 14, 2021

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Residential Tenancy Branch