



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: MNDL, MNRL, MNDCL, FFL

### Introduction

The landlords seek compensation against their former tenants, pursuant to sections 67 and 72 of the *Residential Tenancy Act* ("Act").

One of the landlords attended the hearing on April 29, 2021 at 1:30 PM. Neither tenant attended the hearing, which ended at 1:47 PM.

The landlord gave evidence, both by way of oral testimony and supporting documentary evidence, that they served the tenants the Notice of Dispute Resolution Proceeding package by Canada Post registered mail. A copy of the package along with the tracking number were provided into evidence. The Canada Post's "Track a package by tracking number" website indicated that the package was received by the tenants on January 4, 2021. A signature download image matched that of the tenants' name. In addition, the landlord testified that the other landlord served supporting evidence, along with a Monetary Order Worksheet, to the tenants in their mailbox on April 11, 2021.

Based on this evidence I find that the tenants were served in compliance with the Act and with the *Rules of Procedure*, under the Act.

### 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 March 18, 2018 and ended on October 29, 2020. Monthly rent was \$1,975.00 and this was due on the first day of the month. The tenants paid a security deposit in the amount of \$987.50, which the landlords currently hold in trust pending the outcome of this application. Submitted into evidence was a copy of the written Residential Tenancy Agreement.

In their application, the landlords seek compensation for the following:

1. Unpaid rent in the amount of \$9,875.00;
2. Unpaid utilities in the amount of \$1,300.00;
3. Costs related to a locksmith in the amount of \$187.17;
4. Costs related to a bailiff in the amount of \$4,700.00;
5. Repair costs to the roof of the rental unit in the amount of \$4,850.00; and
6. Cost of the dispute resolution filing fee in the amount of \$100.00.

Copies of bank statements showing no payments of rent being made for the applicable period of June to October 2020, copies of two utility bills, a copy of the locksmith's invoice, a copy of the bailiff services statement of account, and, an invoice receipt for the roof repair, were all submitted into evidence. There were a few additional receipts for smaller amounts and for other matters, but the landlord explained that they were forgoing the collection of those amounts.

The total unpaid utilities were slightly more than the \$1,300.00 being claimed, but the landlord confirmed that this is the amount that they sought to recover. "Some sort of deal," had been made between the landlord and the tenants, the landlord said, that explains the lower amount being claimed.

Regarding the roof repairs, the landlord testified that when they purchased the rental unit, which is a house, in 2018, the condition of the roof was "OK" and "pretty good." They had hoped that it would last at least another five to six years. It would not.

It turns out that the tenants were engaged in some sort of criminal behavior during the tenancy and in the summer of 2020. There was racist paraphernalia and graffiti about the property, needles, and so forth. Much of this was not discovered until after the tenants left. The landlord described it as a drug den. The police had apparently attended on a few occasions. After the bailiff's had done their work, the landlord entered the property only to find a large, at least a 2-foot-large, hole in the roof. It was visible from inside the dining room and the hole went straight up through the roof. Below the hole on the floor was toxic waste.

The landlord hired the services of a roof repair contractor, who, after finding localized repairs would not work – the hole was that large and the damage that extensive – had to replace the entire asphalt shingle roof.

### Analysis

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.

Section 26 of the Act requires that a tenant pay rent in full when it is due. This includes the payment of any utilities that must be paid. The landlords' uncontested oral and documentary evidence persuades me to find that the tenants paid neither the rent for five months nor the utilities as required.

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. The landlords' uncontested oral and documentary evidence firmly establishes that the tenants breached this section of the Act by deliberately or grossly negligently damaging the roof of the rental unit such that they created a two-foot-wide hole that required extensive, full-roof repairs.

Further, I find that the locksmith and bailiff costs were necessary in order for the landlords to assert their rights of possession under the Act. The tenants did not vacate the rental unit voluntarily and they put the landlords into the position of having to pay for new locks.

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.

As I briefly explained to the landlord during the hearing, I must apply a certain amount of depreciation to the cost to repair the roof. This is based on [Residential Tenancy Policy Guideline 40](#), which reflects the general policy and understanding that a landlord (in most cases, the property owner) will, at some point, replace and repair certain building elements regardless of whether a tenant has damaged them or not.

An asphalt shingled roof is considered to have a useful life of 15 years (page 3 of the above-noted guideline). While the landlord did not provide evidence as to how old the roof was, they testified that they expected in 2018 that the roof would last at least another 5 to 6 years. Thus, the roof ought to have had a useful life until at least 2024.

Taking 2009, then, as the starting date in terms of calculating depreciation, and taking 2024 as the ending date, it follows that the roof lasted a total of 11 of the 15 years it was supposed to have lasted (according to the guideline). Thus, in applying a 73% depreciation to the amount claimed (11 divided by 15), I am prepared to grant a reduced award of \$1,309.50 for the roof repair costs.

As the landlords were successful in their application, I grant them an award of \$100.00 to help recover the cost of the filing fee, pursuant to section 72 of the Act.

I award the landlords a total monetary award of \$17,471.67.

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 landlords may retain the tenants’ security deposit of \$987.00 in partial satisfaction of the amount awarded.

Issued in conjunction with this decision, to the landlords, is a monetary order in the amount of \$16,484.67. The monetary order must be served on the tenants in order for it to be enforceable in the Provincial Court of British Columbia. Service may be executed in any manner listed in [section 88](#) of the Act.

To summarize the amounts awarded, and the resulting monetary order:

CLAIM	AMOUNT
Unpaid rent	\$9,875.00
Unpaid utilities	1,300.00
Bailiff costs	4,700.00
Roof repairs (after depreciation applied)	1,309.50
Locksmith cost	187.17
Filing fee	\$100.00
<i>LESS security deposit</i>	<i>(\$987.00)</i>
Total:	\$16,484.67

Conclusion

The landlords' application is granted.

I hereby grant the landlords a monetary order in the amount of \$16,484.67, 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.

This decision is made on authority delegated to me under section 9.1(1) of the Act.

Dated: April 29, 2021

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Residential Tenancy Branch