



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDL-S, MNDCL-S, FFL

### Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on January 15, 2021 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

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

The Landlord and the Tenant A.R. attended the hearing at the appointed date and time. At the beginning of the hearing, the parties acknowledged receipt of their respective application package 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.

### Preliminary Matters

At the start of the hearing, the parties testified and agreed that the Landlord has returned the Tenants' deposits in full. As such, the Landlord's claim to retain the Tenants' deposits is therefore dismissed without leave to reapply.

Issues to be Decided

1. Is the Landlord entitled to a monetary order for damage, compensation, or loss, pursuant to Section 67 of the *Act*?
2. Is the Landlord entitled to an order granting recovery of the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The parties testified and agreed that the tenancy began on October 13, 2018. Near the end of the tenancy, the Tenants were required to pay rent in the amount of \$1,641.60 to the Landlord on the first day of each month. The Tenants paid a security deposit in the amount of \$800.00 and a pet damage deposit in the amount of \$200.00, both of which have since been returned to the Tenants. The parties also agreed that the tenancy ended on December 31, 2020.

The Landlord is claiming \$216.30 for the replacement of two fridge door shelves that were cracked during the tenancy. The Tenant stated that even though the Landlord did not complete a condition inspection report, the Tenant agreed to compensate the Landlord for the cost associated to replacing the cracked shelves.

The Landlord is claiming \$1,049.26 in relating to cleaning costs. The Landlord stated that at the end of the tenancy, the Tenants left the rental unit unclean, which required the Landlord to employ the services of a cleaner who spent 26 hours cleaning the rental unit. The Landlord provided pictures of the condition of the rental unit at the end of the tenancy, a statement from the cleaner outlining the work that was completed, and an invoice in support of the cleaning costs.

In response, the Tenant stated that they vacated the rental unit early on December 23, 2020 as they wished to be in their new residence for Christmas. The Tenant confirmed that they notified the Landlord that they had moved out completely and had left the keys in a container outside. The Tenant stated that he does not agree with paying the Landlord for the cost of cleaning, as the Landlord should have notified the Tenants that the rental unit was not reasonably clean, at which point the Tenants would have cleaned the rental unit before the end of December 2020. The Tenant stated that the pictures of the rental unit provided by the Landlord accurately represents the condition of the rental unit at the end of the tenancy.

If successful, the Landlord is also seeking the return of the filing fee paid to make the Application.

### 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 Landlord 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 Landlord 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*.

Section 44(1)(d) of the *Act* outlines that a tenancy ends when ... the tenant vacates or abandons the rental unit.

According to Section 37 (1) Unless a landlord and tenant otherwise agree, the tenant must vacate the rental unit by 1 p.m. on the day the tenancy ends.

**(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.**

In this case, I accept that the Landlord breached the Act by not conducting a move in, or move out condition inspection report. I find however, that this does not prevent the Landlord from submitted a claim for damage, compensation, or loss. In this case, I accept that the Tenant agreed to compensating the Landlord in the amount of \$216.30 for the replacement of two crack fridge shelves. As such, I award the Landlord **\$216.30**.

The Landlord is also claiming for \$1,049.26 in relation to cleaning costs. I accept that the Tenants notified the Landlord that they moved out early, providing the Landlord with vacant possession of the rental unit, as well as the keys to the rental unit on December 23, 2020. I find that the Tenants ended the tenancy early on December 23, 2020 when they vacated the rental unit.

I find that it was the Tenants' responsibility to leave the rental unit reasonably clean before they vacate the rental unit. I accept that the Tenant confirmed that the Landlord's pictures accurately reflected the condition of the rental unit at the end of the tenancy. I find that the pictures demonstrate that that Tenants did not leave the rental unit reasonably clean at the end of their tenancy.

The Tenant stated that the Landlord could have mitigated their loss by notifying the Tenants that the rental unit required further cleaning, at which point the Tenants would have returned to clean the rental unit. I find that it is unreasonable for the Tenants to have expected that the Landlord to be satisfied with the condition of the rental unit at the time of the Tenants providing vacant possession of the rental unit to the Landlord. I find that there is no requirement for the Landlord to ask the Tenants to return to the rental unit to perform cleaning that should have been done before they vacated the rental unit.

As such, I find that the Landlord is entitled to monetary compensation in the amount of **\$1,049.26** for cleaning. As the Landlord was successful with their Application, I find they are entitled to recover the **\$100.00** filing fee paid to make the Application. Pursuant to section 67 of the *Act*, I find the Landlord is entitled to a monetary order in the amount of \$1,365.56.

### Conclusion

The Landlord has established an entitlement to monetary compensation and is granted a monetary order in the amount of **\$1,365.56**. The order should be served to the Tenants 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: May 18, 2021

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Residential Tenancy Branch