



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CAPILANO PROPERTY MANAGEMENT SERVICES and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      Tenant: MNDC MNSD  
Landlord: MND MNSD FF

### Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties. The participatory hearing was held, via teleconference, on June 11, 2021. Both parties applied for multiple remedies under the *Residential Tenancy Act* (the “Act”).

Both parties attended the hearing and provided testimony.

### *Landlord’s Application*

The Tenant confirmed receipt of the Landlord’s application, Notice of Hearing, and evidence. I find the Landlord sufficiently served the Tenant with their application and evidence. The Tenant did not submit any evidence in response to the Landlord’s application.

### *Tenant’s Application*

The Tenant stated that he filed an application, but never received a Notice of Dispute Resolution from our office. As such, he did not serve the Landlord with any documentation or evidence pertaining to his application against the Landlord. During the hearing, this issue was discussed, and the Tenant acknowledged that the wrong email address was put on his application form. Given this mistake, the Tenant never received the Notice of Dispute Resolution from our office when it was sent via email. After reviewing the file, I note our office sent the Notice of Dispute Resolution Proceeding to the Tenant’s email address on April 21, 2021 (the address the Tenant put on the application form). Obviously, this email never reached the Tenant, but I note this issue was caused by the Tenant’s own mistake. In any event, the Tenant must serve the

Landlord with the Notice of Dispute Resolution Proceeding in order for their application to be heard. Given this was not done, I dismiss the Tenant's application, with leave to re-apply.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

#### Issue(s) to be Decided

- Is the Landlord entitled to compensation for damage to the unit?
- Is the Landlord entitled to recover the cost of the filing fee?

#### Background and Evidence

Both parties agree that monthly rent was \$1,330.00 and was due on the first of the month. Both parties also agree that the Landlord holds a security deposit in the amount of \$650.00. A copy of the tenancy agreement was provided into evidence, which shows that the tenancy started on April 1, 2018. The parties both agree that the tenancy ended on December 31, 2020, when the Tenant vacated the rental unit.

Both parties also agree that a move-in and move-out inspection was completed. The move-out inspection was conducted on December 31, 2020, the same day the keys were returned, and the Tenant moved out. The Tenant did not sign the move-out inspection because they did not feel it was a fair representation of the condition of the rental unit.

The Landlord provided a monetary worksheet to summarize what he is seeking. The items are as follows:

- 1) \$200.00 – Carpet Cleaning

The Landlord pointed to term #11 on the tenancy agreement provided into evidence to show that the Tenant agreed to have the carpets professionally steam cleaned at the end of the tenancy. The Landlord stated that this was not done, and as a result, the Landlord hired a steam cleaning company to come and clean the carpets. A receipt was provided into evidence. The Landlord stated they are only seeking \$200.00 for this item, as this was the amount of the Landlord's pre-estimate, even though the actual invoice

was for \$250.00 plus tax. The Landlord stated that the carpets were stained, so the carpets had to be cleaned.

The Tenant stated that although they cleaned the carpets around a month before the end of the tenancy, they acknowledge that they were not done professionally, as agreed in the tenancy agreement. The Tenant stated that they are willing to pay for this amount.

2) \$100.00 – Blind Cleaning

The Landlord stated that this amount was paid to a third-party company to clean the vertical blinds, and the drapes in the rental unit. The Landlord provided a copy of the receipt for this item, which shows that they spent \$140.00 plus tax but the Landlord is only seeking \$100.00 for this item, as \$100.00 was the amount they pre-estimated it would be. The Landlord pointed to a term in the addendum, which states the following:

*“Upon Vacating – The Tenant undertakes at his/her own expense, to have the supplied drapes dry cleaned within the last month of the tenancy...”*

The Landlord stated that the blinds were dirty, and unclean at the end of the tenancy. The Landlord did not provide any photos of the blinds or drapes. In the condition inspection report, the blinds were noted to be in good condition at the start of the tenancy, and at the end of the tenancy, they were listed as “poor” in the bedroom and the living room.

The Tenant feels this charge is “ridiculous” and that it should not cost this much to clean the blinds and drapes. The Tenant acknowledged that the window coverings were not professionally cleaned before the end of the tenancy.

3) \$400.00 – Drywall patch and paint

The Landlord stated that, although he was not present at the move-out inspection on December 31, 2020, he attended the unit on January 4, 2021, to take photos of the walls. The Landlord provided copies of these photos into evidence, which show several patched areas on the living room walls. The Landlord stated that the photos were taken a matter of hours after the wall repair was completed by the contractor on January 4, 2021. The Landlord further explained that there were around 6-7 holes in the drywall in the living room.

On the monetary order worksheet the Landlord provided, he indicated he is seeking this amount, \$400.00, for “drywall and paint repairs”. However, during the hearing, the Landlord pointed to an invoice for \$380.00, plus GST, for closet repair as well as materials and labour for drywall mud, and 4 litres of paint. The Landlord stated that he is not seeking reimbursement for painting costs, as the rental unit likely needed repainting anyways. The Landlord appeared mostly focused on recovering compensation to patch the drywall holes.

The Tenant denies making any holes in the drywall, and stated that there were only a small number of nail holes left, which should be considered normal wear and tear. The Tenant did not speak to any of the other items.

### Analysis

The Landlord is seeking monetary compensation for several items, as laid out above. These items will be addressed in the same order for my analysis. A party that makes an application for monetary compensation against another party has the burden to prove their claim.

In this instance, the burden of proof is on the Landlord to prove the existence of the damage/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 everything possible to minimize the damage or losses that were incurred.

When two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party making the claim has the burden to provide sufficient evidence over and above their testimony to establish their claim.

Based on all of the above, the evidence (inspection report, photos and invoices) and the testimony provided at the hearing, I find as follows:

#### 1) \$200.00 – Carpet Cleaning

I have reviewed the testimony and evidence on this matter, and I accept that the Tenant was supposed to have the carpets professionally steam cleaned before the end of the tenancy. This was a term the Tenant agreed to in the addendum of the tenancy agreement. The Tenant does not dispute that this was not done. During the hearing, the Tenant also expressed that they were willing to pay for this amount. As this amount is

not disputed, and is supported by term #11 in the tenancy agreement, I award it in full, \$200.00

2) \$100.00 – Blind Cleaning

I have reviewed the testimony and evidence on this matter and I note the Tenant specifically agreed to a clause in the addendum of the tenancy agreement that they would, within the last month of the tenancy, pay to have the blinds/drapes dry-cleaned. There is no evidence that this was done by the Tenant. Regardless of how clean the blinds were at the start of the tenancy, the Tenant specifically agreed to clean them (as per the tenancy agreement) at the end of the tenancy. I award this item, in full, as the Tenant breached the term in the addendum of the agreement by failing to dry-clean the drapes, as agreed upon.

3) \$400.00 – Drywall patch and paint

I have reviewed the testimony and evidence on this matter, and I do not find the Landlord has sufficiently articulated and explained what this amount is based upon. I note the onus is on the Landlord to clearly lay out the value of the loss/damage, and what it is based upon. I find the Landlord provided an unclear/inconsistent account and itemization as to what this amount pertains to. The Landlord provided a monetary worksheet speaking to “drywall and paint repairs” for this item, but in the hearing stated he was not concerned with paint costs, just the drywall repair costs.

Further, at the hearing, the Landlord stated that his invoice for this item also includes a minor closet door repair, which was not noted on his monetary order worksheet or his application form itself. The Landlord expressed in the hearing that he was mainly concerned with costs to patch the holes in the drywall, not the re-painting costs, but the drywall repair costs and painting costs were not separated out in the receipt he provided. The Landlord did not explain how the \$400.00 was calculated, and no further breakdown was provided during the hearing.

I do not find the Landlord provided a clear and internally consistent explanation as to what this amount included, or how it was calculated. It appears that this item started as being related to paint/drywall repair (as per the application and related monetary order worksheet), but a brief and partial explanation was given during the hearing about the painting costs not being important, and also that this amount may also include alleged closet door damage. Overall, I find there was a lack of clarity on this item. I dismiss this item, in full.

Further, section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. As the Landlord was partially successful with his application, I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

Also, pursuant to sections 72 of the Act, I authorize that the security deposit, currently held by the Landlord, be kept and used to offset the amount owed by the Tenant. In summary, I grant the monetary order based on the following:

<b>Claim</b>	<b>Amount</b>
Total of items listed above	\$300.00
Filing fee	\$100.00
Less: Security Deposit currently held by Landlord	(\$650.00)
<b>TOTAL:</b>	<b>(\$250.00)</b>

As laid out above, the Landlord is awarded \$400.00 total for all matters on this application, and currently holds \$650.00 in deposits. I authorize the Landlord to retain \$400.00 from the security deposit in full satisfaction of his monetary claim. I order that the remaining balance of \$250.00 be returned to the Tenant.

### Conclusion

The Tenant is granted a monetary order pursuant to Section 67 in the amount of **\$250.00**. This order must be served on the Landlord. If the Landlord fails to comply with this order the Tenant may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

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: June 14, 2021

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Residential Tenancy Branch