



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ARPEG HOLDINGS LTD. / HASTINGS HOLDINGS 2015 LTD. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNRL-S MNDL-S FFL

### Introduction

The landlords seek compensation pursuant to sections 26, 67, and 72 of the *Residential Tenancy Act* ("Act"). In attendance at the hearing on September 3, 2021 at 1:30 PM was the landlords' agent. The tenant did not attend the hearing, which ended at 1:41 PM.

Based on the Canada Post registered mail tracking information provided to me by the agent, it is found that the tenant was served with the Notice of Dispute Resolution Proceeding in accordance with the Act and the *Rules of Procedure*.

### Issue

Is the landlord 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 February 1, 2019 and ended on January 8, 2021. Monthly rent, which was due payable on the first day of the month, was \$1,100.00. The tenant paid a security deposit of \$550.00 and a pet damage deposit of \$550.00, both of which the landlords currently hold in trust pending the outcome of its application. There is in evidence a copy of the written tenancy agreement. It should be noted that the landlords previously obtained an order of possession from the Residential Tenancy Branch on January 5, 2021.

In this application, the landlords seek the following (as reproduced from the landlords' completed Monetary Order Worksheet): (1) \$4,900.00 in rent arrears, (2) \$664.73 for an oven replacement, (3) \$458.17 for paint supplies, (4) \$126.00 for rental unit cleaning, and (5) \$748.00 for paint labor, for a total of \$6,896.90. In addition to these amounts the landlords seek \$100.00 for the cost of the application filing fee.

The landlords' agent (hereafter the "landlord") testified that rent in the above-noted amount was owing for various months. A copy of the landlords' *Tenant Ledger* document was submitted into evidence as proof of the rent arrears.

The landlords' claim is that, as a result of the tenant's negligence, the rental unit was left in a state of disrepair such that the oven need replacing, the rental unit required painting, and the rental unit needed to be cleaned. In support of the landlords' claim, submitted into evidence were copies of all invoices and receipts for these costs and expenses, and a copy of a completed condition inspection report. The landlord affirmed, under oath, that the evidence provided in support of its claim was truthful and accurate.

### Analysis

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.

#### **1. Claim for 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 all or some of the rent.

The landlord provided oral and documentary evidence to support their claim that the tenant owes the landlords \$4,900.00 in rent arrears. There is insufficient evidence before me to find that the tenant had any legal right under the Act to not pay the rent.

Taking into consideration all the undisputed oral 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 unpaid rent of \$4,900.00.

## **2. Claim for Damages and Repairs**

Section 37(2) of the Act requires a tenant to leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, when they vacate.

Taking into consideration all the undisputed oral and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the tenant breached section 37(2) of the Act, and that but for the breach the landlords would not have suffered the loss and damages for which they now claim. Further, it is determined that the amounts claimed are reasonable, and that the landlords have mitigated any such losses by going with what are reasonable claimed amounts.

In summary, and pursuant to section 67 of the Act, the landlords are awarded \$1,996.90 in compensation in respect of the non-rent portion of their claim for compensation.

## **3. Claim for Recovery of Filing Fee Cost**

Section 72 of the Act permits me to order compensation for the cost of the filing fee to a successful applicant. As the landlords succeeded in their application, I grant them \$100.00 in compensation to cover the cost of the filing fee.

## **Summary of Award, Retention of Security and Pet Damage Deposits, and Order**

In total, the landlords are awarded \$6,996.90.

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 tenant’s security and pet damage deposits totalling \$1,100.00 in partial satisfaction of the above-noted award.

The balance of the award, \$5,896.90, is granted to the landlords by way of a monetary order. This order, which is issued in conjunction with this decision to the landlords, must be served on the tenant. Should the tenant fail to pay the amount to the landlords then the landlords may file and enforce this order in the Provincial Court of British Columbia (Small Claims Court).

Conclusion

I HEREBY:

1. grant the landlords' application;
2. authorize and order the landlords to retain the tenant's \$550.00 security deposit and the tenant's \$550.00 pet damage deposit; and,
3. grant the landlords a monetary order for \$5,896.90, which must be served on the tenant. If the tenant fails 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: September 3, 2021

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Residential Tenancy Branch