



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding RENE YABAR PROFESSIONAL CORPORATION and [tenant name suppressed to protect privacy]

## **DECISION**

### **Dispute Codes:**

MNDL-S, MNRL-S, MNDCL-S, FFL

### **Introduction**

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss, for a monetary Order for unpaid rent, for a monetary Order for damage to the rental unit; to keep all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

The Agent for the Landlord stated that in May of 2021 the Dispute Resolution Package and evidence submitted to the Residential Tenancy Branch in May of 2021 was sent to the Tenant, via registered mail. The Tenant acknowledged receipt of these documents and the evidence was accepted as evidence for these proceedings.

On October 20, 2021 the Tenant submitted evidence to the Residential Tenancy Branch. The Tenant stated that this evidence was served to the Landlord, via registered mail, in October of 2021. The Landlord acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

On October 29, 2021 the Landlord submitted additional evidence to the Residential Tenancy Branch. The Agent for the Landlord stated that this evidence was served to the Tenant, via email, on October 29, 2021. The Tenant acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

On November 08, 2021 the Tenant submitted additional evidence to the Residential Tenancy Branch. The Tenant stated that this evidence was served to the Landlord, via email, on November 08, 2021. The Landlord acknowledged receiving this evidence and

he declared he had sufficient time to consider that evidence. That evidence was, therefore, accepted as evidence for these proceedings.

The participants were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each participant affirmed that they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The participants were advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. Each participant affirmed they would not record any portion of these proceedings.

### Preliminary Matter

I experienced a power outage shortly after this hearing commenced. I was able to dial back into the teleconference using a cell phone and was able to participate in the hearing despite the power outage.

### Issue(s) to be Decided

Is the Landlord entitled to compensation for damage to the rental unit, to compensation for unpaid rent, and to keep all or part of the security deposit?

### Background and Evidence

The Landlord and the Tenant agree that:

- the tenancy began on May 08, 2018;
- the Tenant agreed to pay rent of \$2,100.00 by the first day of each month;
- the Tenant paid a security deposit of \$1,050.00;
- the Tenant gave notice of her intent to vacate the unit on April 30, 2021;
- the rental unit was vacated on May 03, 2021; and
- the Tenant provided a forwarding address, via email, on May 12, 2021.

The Landlord is seeking compensation, in the amount of \$200.00, for a kitchen cabinet that was damaged during the tenancy. The Landlord stated that at the end of the tenancy a kitchen cupboard door was partially detached, which he believes was caused by external force. The Tenant stated that the door became loose over time and no unusual force was applied to the door.

The Landlord submitted photographs, which the Agent for the Landlord stated were taken at the end of the tenancy, which show the damage to the cupboard door. The Tenant agrees this photograph fairly represented the condition of the door at the end of the tenancy.

The Landlord submitted an invoice to show the Landlord was charged \$200.00 to repair the cupboard door.

The Landlord is seeking compensation, in the amount of \$3,301.73, for repairing the laminate flooring. The Agent for the Landlord stated that the laminate flooring was damaged in four or five places, likely from water being spilled onto the floor.

The Tenant stated that she does not believe the floors are damaged, although there may have been a few spills in the kitchen, which she typically wiped up immediately.

The Landlord submitted photographs of the damage to the floor. The Tenant agreed the photographs represent the condition of the floor at the end of the tenancy.

The Landlord is seeking compensation, in the amount of \$240.00, for cleaning the rental unit. The Agent for the Landlord stated that cleaning was required in various places at the end of the tenancy. The Landlord submitted an invoice to show the Landlord was charged \$240.00 for cleaning.

The Tenant stated that she paid a professional \$500.00 to clean the unit at the end of the tenancy and that additional cleaning was not required.

The Landlord submitted photographs of the unit at the end of the tenancy. The Tenant agreed the photographs represent the cleanliness of the unit at the end of the tenancy.

The Landlord is seeking compensation of \$210.00 in rent for the first three days of May of 2021. The Landlord and the Tenant agree that the Landlord permitted the Tenant to remain in the unit for the first three days of May and that rent was not paid for those three days.

### Analysis

When making a claim for damages under a tenancy agreement or the *Act*, the party making the claim has the burden of proving their claim. Proving a claim in damages

includes establishing that damage or loss occurred; establishing that the damage or loss was the result of a breach of the tenancy agreement or *Act*; establishing the amount of the loss or damage; and establishing that the party claiming damages took reasonable steps to mitigate their loss.

Section 37(2)(a) of the *Act* stipulates 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.

On the basis of the photograph submitted in evidence, I find that a cupboard door was damaged during the tenancy. On the basis of the nature of the damage, I find that the damage exceeds normal wear and tear, as it is unlikely damage of that nature would occur without some sort of external force. I find that the Tenant failed to comply with section 37(2)(a) of the *Act* when the Tenant failed to repair the cupboard door and that the Landlord is entitled to compensation for the cost of repairing the door, which was \$200.00.

On the basis of the photographs submitted in evidence, I find that the damage to the laminate flooring is relatively minor and, as such, should be considered normal wear and tear. As tenants are not required to repair damage that is normal wear and tear, I dismiss the Landlord's application for compensation for repairing the floor.

While I accept the Tenant's testimony that she hired professional cleaners, I find that the Landlord's photographs show additional cleaning was required after the unit was vacated. I therefore find that the Tenant failed to comply with section 37(2)(a) of the *Act* when the Tenant failed to leave the unit in reasonably clean condition and that the Landlord is entitled to compensation for the cost of cleaning, which was \$240.00.

On the basis of the undisputed evidence, I find that the Tenant gave notice to end the tenancy, effective April 30, 2021; that the Tenant remained in the rental unit until May 03, 2021, with the permission of the Landlord; and that no rent was paid for May of 2021.

Tenants are required to pay rent when it is due. When tenants remain in a rental unit after the end of the tenancy, they must pay rent on a per diem basis, even if they are remaining in the unit with the consent of the Landlord. I therefore find that the Tenant must pay daily rent of \$67.74 for 3 days, which is \$203.22.

I find that the Landlord's Application for Dispute Resolution has merit and that the Landlord is entitled to recover the fee for filing this Application for Dispute Resolution.

### Conclusion

The Landlord has established a monetary claim, in the amount of \$743.22, which includes \$200.00 for repairing a cupboard door, \$240.00 for cleaning, \$203.22 in rent for May of 2021, and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to retain \$743.22 from the Tenant's security deposit of \$1,050.00 in full satisfaction of this monetary claim.

As the Landlord has not established the right to retain the Tenant's full security deposit, the Landlord must return the remaining \$306.78 to the Tenant. Based on these determinations I grant the Tenant a monetary Order for the \$306.78. In the event the Landlord does not voluntarily comply with this Order, it may be served on the Landlord, filed with the Province of British Columbia Small Claims Court and 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 *Act*.

Dated: November 16, 2021

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Residential Tenancy Branch