



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDCL-S, FFL

### Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution, filed on May 18, 2021, in which the Landlord requested monetary compensation from the Tenants in the amount of \$596.42 and to recover the filing fee.

The hearing was conducted by teleconference at 1:30 p.m. on November 18, 2021. Both parties called into the hearing and were provided the opportunity to present their evidence orally and in written and documentary form and to make submissions to me. The Landlord was represented by an agent, F.L. All three Tenants called into the hearing.

The parties were cautioned that recordings of the hearing were not permitted pursuant to *Rule 6.11* of the *Residential Tenancy Branch Rules*. Both parties confirmed their understanding of this requirement and further confirmed they were not making recordings of the hearing.

The parties agreed that all evidence that each party provided had been exchanged. No issues with respect to service or delivery of documents or evidence were raised. I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Branch Rules of Procedure*. However, not all details of the parties' respective submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to monetary compensation from the Tenants?
2. Should the Landlord be authorized to retain the Tenants' security deposit towards the amounts awarded?
3. Should the Landlord recover the filing fee paid for the Application?

Background and Evidence

A copy of the residential tenancy agreement was provided in evidence. It confirmed that this tenancy began September 1, 2020 and ended April 30, 2021. The Tenants paid \$3,200.00 in rent and a \$1,600.00 security deposit.

In the hearing before me the Landlord alleged the Tenants failed to leave the rental unit clean. In this respect the Landlord sought compensation for the cost to clean the carpets in the amount of \$120.00. In support the Landlord provided photos of the rental unit taken when the tenancy ended.

The Landlord also sought the sum of \$105.00 for general cleaning and provided several photos of the rental unit taken at move out.

The Landlord also sought the sum of \$84.00 to clear the drains. Pursuant to clause 4 of the Addendum to the Agreement the Tenants agreed to the following:

4. Tenant(s) are responsible for any plugging issues to the toilets, bathtubs and kitchen sink caused by the tenants.

In support the Landlord provided photos of hair which the agent said was pulled out of the drains by the Landlord's plumber.

The Landlord's agent confirmed the Tenants paid the \$187.42 utility bill such that this amount was no longer requested.

In response to the Landlord's claim the Tenant M.T. testified as follows. She stated that all three of them cleaned the rental unit for hours on the day of move out. She submitted that the rental unit was left reasonably clean as required by the Act. She also stated

that the carpets were not dirty, but my have had a bit of lint on them when they moved out due to walking around and moving items out. She noted that the carpets had some stains as noted on the move in condition inspection, however, they did not add to the stains nor do they believe the carpets required shampooing at the end of the tenancy.

In terms of the drain, the Tenant stated that one of the bathrooms had two sinks and one of those sinks did not drain properly during the tenancy. She confirmed that she did not inform the Landlord of this as the Landlord failed to address the fact the bathroom and bedroom doors did not lock and they felt that bringing any more issues to the Landlord's attention was a waste of time.

### Analysis

In this section reference will be made to the *Residential Tenancy Act*, the *Residential Tenancy Regulation*, and the *Residential Tenancy Policy Guidelines*, which can be accessed via the Residential Tenancy Branch website at:

[www.gov.bc.ca/landlordtenant](http://www.gov.bc.ca/landlordtenant).

In a claim for damage or loss under section 67 of the *Act* or the tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the Landlord has the burden of proof to prove their claim.

Section 7(1) of the *Act* provides that if a Landlord or Tenant does not comply with the *Act*, regulation or tenancy agreement, the non-complying party must compensate the other for damage or loss that results.

Section 67 of the *Act* provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

To prove a loss and have one party pay for the loss requires the claiming party to prove four different elements:

- proof that the damage or loss exists;
- proof that the damage or loss occurred due to the actions or neglect of the responding party in violation of the *Act* or agreement;

- proof of the actual amount required to compensate for the claimed loss or to repair the damage; and
- proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails.

Section 37(2) of the *Act* requires a tenant to leave a rental unit undamaged, except for reasonable wear and tear, at the end of the tenancy and reads as follows:

- 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.

After consideration of the testimony and evidence before me, and on a balance of probabilities I find the following.

I find the Tenants left the rental unit in a reasonably clean condition, free of damage. I have reviewed the photos submitted by the Landlord, and while some light cleaning may have been done to prepare the unit for the next tenancy, I am not satisfied this was necessitated because the Tenants failed to clean the unit as required by section 37 of the *Act*. I therefore dismiss the Landlord's claim for \$105.00 for cleaning.

This was a short term tenancy of only eight months. In such cases, the Tenants are not responsible for cleaning carpet unless the tenants have pets or have stained the carpets as per *Residential Tenancy Policy Guideline 1: Landlord & Tenant – Responsibility for Residential Premises* which provides the following guidance with respect to carpets:

### **CARPETS**

1. At the beginning of the tenancy the landlord is expected to provide the tenant with clean carpets in a reasonable state of repair.
2. The landlord is not expected to clean carpets during a tenancy, unless something unusual happens, like a water leak or flooding, which is not caused by the tenant.
3. The tenant is responsible for periodic cleaning of the carpets to maintain reasonable standards of cleanliness. Generally, at the end of the tenancy the tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year. Where the tenant has deliberately or carelessly stained the carpet he or she will be held responsible for cleaning the carpet at the end of the tenancy regardless of the length of tenancy.
4. The tenant may be expected to steam clean or shampoo the carpets at the end of a tenancy, regardless of the length of tenancy, if he or she, or another occupant, has had pets which were not caged or if he or she smoked in the premises.

Based on the above, and the evidence before me, I am not satisfied the Landlord has proven that steam cleaning or shampooing of the carpets was necessary when this tenancy ended. I therefore dismiss the Landlord's claim for the cost to clean the carpets.

The Tenant stated that one of the drains did not work in one of the bathrooms. She claims this was the case when the tenancy began, yet never brought this to the Landlord's attention. On balance, I find it more likely the Tenants caused blockages in the drains due to the presence of hair. I therefore award the Landlord the **\$84.00** claimed to clear the drains.

As the Landlord has been partially successful in this claim, I award them one half the filing fee for a total award of **\$50.00**.

### Conclusion

The Landlord's request for monetary compensation from the Tenants is granted in part. The Landlord is granted monetary compensation in the amount of **\$134.00** for the cost to clear the drains and one half the filing fee. The balance of the Landlord's claim is dismissed without leave to reapply.

Pursuant to sections 38 and 72 of the *Act*, I authorize the Landlord to retain the awarded sum from the Tenants' \$1,600.00 security deposit; the balance of which, \$1,466.00, must be returned to the Tenants. In furtherance of this I grant the Tenants a Monetary Order in the amount of **\$1,466.00**. This Order must be served on the

Landlord and may be filed and enforced in the B.C. Provincial Court (Small Claims division).

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: November 18, 2021

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Residential Tenancy Branch