



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDL-S, FFL

### Introduction

This hearing was convened in response to an application by the Landlords pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for damages to the unit - Section 67;
2. An Order to retain the security deposit - Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions.

### Preliminary Matters

In a decision dated February 2, 2022, the Landlord was granted an entitlement to serve Tenant BH with its application for dispute resolution, notice of hearing and evidence (the “Hearing Package”) by email. The Tenant did not dispute receiving the Hearing Package. The Parties confirm receipt of each other’s evidence. The Parties confirm that they are not recording the hearing. There is no evidence that Tenant KG was served with the Landlord’s hearing package and as such I dismiss the Landlord’s application as against Tenant KG.

The Parties confirm that Tenant CH is not named as a tenant under the tenancy agreement. As a result, any monetary order that may be granted will not include the name of Tenant CH.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Is the Landlord entitled to retain the security deposit?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The following are agreed facts: the tenancy under written agreement started on August 1, 2020 and ended on June 30, 2021. Rent of \$2,695.00 was payable on the first day of each month. The security and pet deposits have been dealt with. The tenancy agreement provides that the Tenants will pay 4/6 of the total costs of hydro and gas. No forwarding address was given to the Landlord. At the outset of the tenancy the Parties mutually conducted a move-in inspection with a completed report copied to the Tenants.

The Landlord states that the Parties mutually conducted a move-out inspection with a completed report copied to the Tenants. The Tenant states that while the Tenants were in the middle of moving out of the unit the Landlord conducted the move-out inspection without the Tenants. The Tenant confirm that they signed the move-out inspection report agreeing to the accuracy of the report and were given a copy of the report.

The Tenant states that in addition to the collection of the first month's rent and the security and pet deposits of \$1,347.50 each, the Landlord collected an additional amount of \$2,695.00 as the last month's rent. The Landlord agrees that this extra amount was collected and states that it was used for the payment of the second month's rent. The Tenant states that the amount was applied to the last month's rent. The Tenant also agrees with the Landlord that the security and pet deposit was used for the payment of June 2021 rent.

The Landlord states that at the end of the tenancy the Tenants failed to use professional carpet cleaners as required in the tenancy agreement addendum. The Landlord claims

\$185.85 as the costs to clean the carpet and provides a receipt for this cost. The Tenant states that they left the carpets clean by vacuuming. The Tenant argues that as the tenancy length was less than a year, they were not required to steam clean the carpets. The Landlord argues that since the Tenants had pets they were required to have the carpets steam or shampoo cleaned. The Landlord confirms that the move-out report does not indicate that the carpets were unclean and that the Landlord has not provided any photos of an unclean carpet.

The Landlord states that the Tenants failed to do any cleaning at all to the unit at move-out and claims \$350.00 as the costs to have the unit cleaned and \$20.78 as the costs of supplies for extra cleaning done by the Landlord. The Landlord confirms that nothing is noted in the move-out report as unclean and that the Landlord did not provide any photos of an unclean unit. The Tenant states that they used a cleaning company to clean the unit at move-out and that the unit was left clean. The Tenant provides a copy of the cleaning bill.

The Landlord states that the Tenants failed to return the keys at the end of the tenancy and that although the Landlord has its own keys for the unit the Landlord changed the locks to the unit. The Landlord claims the cost of \$291.90 and provides a receipt for the cost dated July 2, 2021. The Tenant states that a set of keys were returned to the Landlord's agent at move-out and that the other set was given to the tenants who moved into the unit. The Landlord confirms that the move-out report does not indicate that keys were not returned.

The Landlord states that the Tenants failed to replace lightbulbs and left a poorly patched hole by the master bedroom door and on the ceiling. The Landlord claims the supply costs of \$117.89 to make repairs and replace lightbulbs. The Landlord does not provide a photo of the hole on the wall in the master bedroom. The Landlord provides a receipt. The Tenant states that while they did patch the hole in the ceiling, they did not

paint the area. The Tenant states that the holes in the wall were well patched and painted and provides a photo of the wall.

The Landlord states that the Tenants left a light fixture with broken glass. The Landlord claims \$79.03 as the replacement cost. The Tenant states that the fixture was plastic and fell down on its own. The Landlord states that they do not have evidence of the age of the fixture that was present when they purchased the unit in 2016. The Landlord does not know the age of the unit.

The Landlord states that the Tenants left the base of a bi-fold door damaged and broken off the wall. The Landlord claims \$19.98 as the supply costs to paint the door. The Landlord confirms that the door was present at purchase and that the Landlord has no evidence of the age of the door. The Tenant states that the door was loose at the bottom left corner and the anchors popped out of the wall.

The Landlord states that the Tenants failed to pay hydro and gas costs and claims a total global amount of \$265.13. The Landlord was unable to break this global cost down to the cost for each utility, cannot state the service dates for the utilities that were unpaid and did not provide any copies of bills for the gas utility. The Tenant states that they do not owe any unpaid utilities.

The Landlord claims 30 days of late rent fees at a rate of \$15.00 per day for the Tenants having paid rent late for a month. The Landlord states that the addendum contains this fee requirement. The Landlord confirms that this cost was not included in the monetary order worksheet or any other particulars in the application.

### Analysis

Section 6(3)(a) of the Act provides that a term of a tenancy agreement is not enforceable if the term is inconsistent with this Act or the regulations. Section 37 of the Act provides 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, and 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. As the requirement in the addendum for professional cleaning is a higher standard than required under the Act, I find that this requirement is not enforceable and cannot be relied upon to substantiate cleaning beyond a reasonably clean state. The Tenant's evidence of having returned the keys to the agent and the next tenant held a ring of truth. For this reason and given the move-out report not including any note of missing keys, I find on a balance of probabilities that the Landlord has not sufficiently substantiated that the keys were not returned. I dismiss the claim for the lock change.

Policy Guideline #1 sets out that "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 and that 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 . . ." Given the undisputed evidence of pets being in the home for an 11-month tenancy, and regardless of the visual appearance of the carpet, I consider that vacuuming would not be sufficient to leave the carpets reasonably clean from pets. For this reason and given the supporting invoice for the costs incurred to clean the carpets, I find that the Landlord has substantiated an entitlement to **\$185.85**.

Given the Tenant's supported evidence of having left the unit otherwise clean, given the move-out report indicating the unit was left clean and as the Landlord has no supporting evidence that the unit was not left clean I find on a balance of probabilities that the Landlord has not substantiated that the Tenants failed to leave the rest of the unit reasonably clean. The Landlord's claim for cleaning and supply costs of \$350.00 and \$20.78 is therefore dismissed.

It is undisputed that lightbulbs required replacement and for this reason I find that the Landlord is entitled to the costs to replace those lightbulbs. As there is no evidence of the number of lightbulbs replaced but noting that the Landlord's invoice specifically states the costs of lightbulbs on the invoice for a total of **\$20.13**, I find that the Landlord is entitled to this sum. Although the move-out report notes the wall damage as "bad" the Landlord provides no photos of the damage. On the other hand, the Tenant provides a photo that does not support that the wall was left "bad". As the Landlord carries the burden of proof for its claims and given the Tenant's evidence I find on a balance of probabilities that the Landlord has not shown that the wall damage required more work by the Landlord. I therefore dismiss the remaining costs claimed for repairs to the wall.

Policy Guideline #40 sets the useful life of a light fixture at 15 years and a regular door at 20 years. Given the Tenant's evidence that the light fixture was plastic and fell down on its own and as the Landlord does not know the age of the fixture, I find on a balance of probabilities that the light fixture was beyond its useful life and was not damaged by any act or negligence of the Tenant. Given the Tenant's evidence that the bifold door was loose and popped out and as the Landlord has no evidence of the age of the door, I find on a balance of probabilities that the bi-fold door was likely beyond its useful life causing it to fall as a result of its age and not by any act or negligence by the Tenant. The costs to replace the fixture and paint the bi-fold door therefore remains with the Landlord and I dismiss the claims for \$79.03 and \$19.98.

Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. Given the Landlord's vague and unsupported evidence of utility costs being claimed and considering the Tenants' evidence of not owing any unpaid utilities, I find on a balance of probabilities that the Landlord has not substantiated the costs claimed and I dismiss the claim for \$265.13.

Section 7(1)(d) of the Regulations provides that a landlord may charge an administration fee of not more than \$25 for the return of a tenant's cheque by a financial institution or for late payment of rent. Although I consider that as the Landlord did not claim any late fees amount in the application they cannot claim it at the hearing, I find nonetheless that as the late fee is greater than allowed under the Regulations it is not enforceable and I dismiss this claim.

As the Landlord's claim have met with minimal success, I find that the Landlord is only entitled to recovery of **\$50.00** as half the filing fee for a total entitlement of **\$255.98**. Although the Parties gave confusing evidence of how the security deposit was dealt with, I accept the undisputed evidence that it has been dealt with and is therefore no longer available for any set off or return.

#### Conclusion

I grant the Landlord an order under Section 67 of the Act for **\$255.98**. If necessary, this order may be filed in the 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: March 30, 2022

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Residential Tenancy Branch