



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, FFL, MNDL, MNRL, MNDCL

### Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made November 23, 2021 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for unpaid rent or utilities;
- a monetary order for damage, compensation, or loss;
- an order of possession for Cause; and
- an order granting the return of the filing fee.

The hearing was scheduled for 9:30am on March 14, 2022 as teleconference hearing. Only the Landlord and the Landlord's Agent attended the hearing at the appointed date and time. No one appeared for the Tenants. The conference call line remained open and was monitored for 45 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Landlord, their Agent, and I were the only persons who had called into this teleconference.

The Landlord stated that they served the Application and documentary evidence to the Tenants by Registered Mail on November 26, 2021. The Landlord provided the Canada Post Registered Mail receipts in support. Pursuant to Section 89 and 90 of the Act, I find the Tenants are deemed to have been served with the above-mentioned documents five days later, on December 1, 2021.

## Preliminary Matters

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution and amendments:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 71(1) [director's orders: delivery and service of document]...

According to the Residential Tenancy Branch Rules of Procedure (the "Rules of Procedure"); 4.1 Amending an Application for Dispute Resolution an applicant may amend a claim by:

- completing an Amendment to an Application for Dispute Resolution form; and
- filing the completed Amendment to an Application for Dispute Resolution form and supporting evidence with the Residential Tenancy Branch directly or through a Service BC Office.

An amendment may add to, alter or remove claims made in the original application. As stated in Rule 2.3 [*Related issues*], unrelated claims contained in an application may be dismissed with or without leave to reapply.

### Rule 4.3 Time limits for amending an application

Amended applications and supporting evidence should be submitted to the Residential Tenancy Branch directly or through a Service BC Office as soon as possible and in any event early enough to allow the applicant to comply with Rule 4.6.

### Rule 4.6 Serving an Amendment to an Application for Dispute Resolution

As soon as possible, **copies of the Amendment to an Application for Dispute Resolution form and supporting evidence must be produced and served upon each respondent by the applicant in a manner required by section 89 of the *Residential Tenancy Act* or section 82 of the *Manufactured Home Park Tenancy Act* and these Rules of Procedure.**

The applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Amendment to an Application for Dispute Resolution form and supporting evidence as required by the Act and these Rules of Procedure. **In any event, a copy of the amended application and supporting evidence should be served on the respondents as soon as possible and must be received by the respondent(s) not less than 14 days before the hearing.**

The Landlord submitted three amendments to their original Application. On December 17, 2021 the Landlord amended their Application to include a monetary claim for damage, unpaid rent and replacement of keys. The Landlord indicated that they served the first amendment by Registered Mail on December 17, 2021. The Landlord provided a copy of the registered mail receipt in support. I find that the Landlord's first amendment was sufficiently served pursuant to the *Act* and *Rules of Procedure* and that the Tenants are deemed to have been served with the Landlord's Amendments on December 22, 2021.

The Landlord submitted a second amendment to their Application on February 25, 2022 amending the monetary amounts of their first amendment, providing a monetary order worksheet and further documentary evidence in support of the claims. The Landlord indicated that they served the second amendment to the Tenants by posting it on the Tenants door on February 25, 2022. I find that posting the second amendment to the Tenants' door was not an approved form of service pursuant to Section 89 of the *Act*. As such, I find that the Landlord did not comply with the Rule of Procedure 4.6 and therefore dismiss the Landlord's second amendment with leave to reapply.

The Landlord submitted a third amendment to their Application on March 11, 2022 adding an additional monetary claim for damage. I find that the Landlord has not complied with the Rules of Procedure 4.6 which requires the Landlord serve the Tenants with the amendment so that it is received by the Tenants no later than 14 days before the hearing. As the Landlord only served the Tenants with the third amendment three days before the hearing, I dismiss the Landlord's claim contained on their third amendment with leave to reapply.

At the start of the hearing, the Landlord confirmed that the tenancy has since ended, therefore, the Landlord's claim for an order of possession is now moot and therefore dismissed without leave to reapply. The hearing continued based on the Landlord monetary claims contained in their first amendment to the Application. The Landlord and their Agent were provided with a full opportunity to present evidence orally and in written

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

#### Issues to be Decided

1. Is the Landlord entitled to a monetary order for damage compensation or loss, pursuant to Section 67 of the *Act*?
2. Is the Landlord entitled to a monetary order for unpaid rent and utilities, pursuant to Section 67 of the *Act*?
3. Is the Landlord entitled to retaining the security deposit, pursuant to Section 38, and 72 of the *Act*?
4. Is the Landlord entitled to an order granting recovery of the filing fee, pursuant to Section 72 of the *Act*?

#### Background and Evidence

The Landlord testified to the following: the tenancy began on November 1, 2019. During the tenancy, the Tenants were required to pay rent in the amount of \$2,300.00 to the Landlord on the first day of each month. The Tenants paid a security and pet damage deposit each in the amount of \$1,150.00, for a total of \$2,300.00 in deposits currently being held by the Landlord. The Landlord stated that the Tenants were meant to vacate the rental unit on November 30, 2021, however, did not return the keys and complete the move out inspection until December 3, 2021.

The Landlord amended their Application on December 17, 2021 to include a claim for monetary compensation in the amount of \$1,623.69. The Landlord provided a monetary worksheet along with the amendment which outlines the following claims:

The Landlord is seeking \$222.58 for unpaid rent. The Landlord stated that the parties had agreed to complete the move out inspection on November 30, 2021 to close out the tenancy and collect the keys. The Landlord stated that the Tenant did not show. Further attempts were made by the Landlord to rebook, however, the Tenants did not make themselves available until December 3, 2021. The Landlord stated that the Tenants overheld their tenancy by three days, therefore, the Landlord is seeking three days of rent which the Landlord calculated on a per diem basis amounting to \$222.58.

The Landlord is claiming \$10.00 for key replacement as the Tenants failed to return the key to the rental unit.

The Landlord is claiming \$385.26 for cleaning blinds in the rental unit. The Landlord stated that they obtained an online quote for "Pulse Mobile Ultrasonic Cleaning" to clean the blinds in the rental unit. The Landlord stated that they have not yet cleaned the blinds, however, provided a quote based on their calculation in support. The Landlord provided a picture of the blind which shows four dots which the Landlord states is organic matter.

The Landlord is claiming \$266.00 for cleaning the rental unit. The Landlord provided an online quote based on a 3.5 hour minimum at \$133.00 per person x two cleaners. The Landlord provided a few pictures of what appears to be a stove, windowsill, and garage floor which required further cleaning. The Landlord stated that they have not yet had the rental unit cleaned.

The Landlord is claiming \$51.94 to purchase paint to touch up door frames that had damage to them from metal hooks that had been hung from the doors by the Tenants. The Landlord provided an online quote in relation to the purchasing the paint. The Landlord provided a picture of the door frames in support.

The Landlord is claiming \$525.00 to repair dents, dings, and touch up paint on walls and cabinetry throughout the rental unit. The Landlord provided a quote, however, stated that the repairs have not yet been completed.

The Landlord is claiming \$70.98 for a bathroom light fixture repair. The Landlord stated that one of the globes was missing at the end of the tenancy. The Landlord provided a quote in support.

The Landlord is claiming \$3.94 to repair a broken plastic clip on a window covering. The Landlord provided a quote and a picture in support.

The Landlord is claiming \$44.02 in relation to repairing a broken kitchen light pendant. The Landlord provided a picture of the light with a missing globe as well as a quote in support.

The Landlord is claiming \$49.70 to replace nine light bulbs in the rental unit. The Landlord provided a quote for the light bulbs as well as pictures of the burned-out light bulbs in support.

The Landlord is claiming \$18.99 to repair a screen door. The Landlord provided a quote to repair the screen and a picture of the damage in support.

The Landlord is claiming \$207.86 in relation to unpaid utility bills. The Landlord stated that the Tenants were responsible for paying 65% of the utilities to the Landlord. The Landlord stated that the Tenant failed to pay the final utility bills near the end of the tenancy. The Landlord provided a copy of the tenancy agreement, a detailed calculation of utilities owed, and a copy of the utility bills in support.

No one appeared for the Tenants to dispute the Landlords' claims.

### Analysis

Based on the uncontested oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 67 of the *Act* empowers me to order one party to pay compensation to the other if damage or loss results from a party not complying with the *Act*, regulations or a tenancy agreement.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided for in sections 7 and 67 of the *Act*. An applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and
4. That the party making the application did what was reasonable to minimize the damage or loss.

In this case, the burden of proof is on the Landlord to prove the existence of the damage or loss, and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Tenants. 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 what was reasonable to minimize the damage or losses that were incurred.

Section 37(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.**

The Landlord is seeking \$222.58 for unpaid rent as the Tenants overheld the rental unit. I accept that the Tenants delayed the final inspection and the return of some of the keys to the rental unit. I find that the Landlord is therefore entitled to compensation in the amount of **\$222.58** which represents three days of rent. I further accept that the Tenants failed to return one key to the Landlord, and award the Landlord **\$10.00** for the replacement cost.

The Landlord is claiming \$385.26 for cleaning blinds in the rental unit. In this case, I find that the Landlord provided insufficient evidence to demonstrate that the blinds in rental unit required such extensive mobile ultra sonic cleaning rather than what could have been accomplished with a cleaner, which the Landlord is also claiming for. I therefore dismiss this claim without leave to reapply.

The Landlord is claiming \$266.00 for cleaning the rental unit. In this case, I am satisfied that the rental unit required further cleaning at the end of the tenancy. I find the quote provided by the Landlord to be reasonable and therefore award the Landlord **\$266.00** for cleaning.

The Landlord is claiming \$51.94 to purchase paint to touch up door frames that had damage to them from metal hooks that had been hung from the doors by the Tenants. I find the Landlord provided sufficient evidence to demonstrate that the Tenants damaged the door frames throughout the rental unit which require touch up paint. As such, I award the Landlord compensation in the amount of **\$51.94**.

The Landlord is claiming \$525.00 to repair dents, dings, and touch up paint on walls and cabinetry throughout the rental unit. While the Landlord provided a quote for the work, I find that the Landlord did not provide pictures of the damages to assess whether it could be considered reasonable wear and tear. As such, I dismiss this claim without leave to reapply.

The Landlord is claiming \$70.98 for a bathroom light fixture repair. The Landlord stated that one of the globes was missing at the end of the tenancy. I accept that the Landlord's bathroom light fixture was damaged during the tenancy. As such, award the Landlord compensation in the amount of **\$70.89** for the replacement of the bathroom fixture.

The Landlord is claiming \$3.94 to repair a broken plastic clip on a window covering. I accept that Landlord would be required to replace this piece to ensure proper functioning of the window covering. As such, I award the Landlord **\$3.94**.

The Landlord is claiming \$44.02 in relation to repairing a broken kitchen light pendant. I accept that the broken kitchen light pendant requires replacement and therefore award the Landlord **\$44.02**.

The Landlord is claiming \$49.70 to replace nine light bulbs in the rental unit. I find that the Landlord provided sufficient evidence to demonstrate that the light bulbs throughout the rental unit required replacement. As such, I award the Landlord **\$49.70** to replace the burned-out light bulbs.

The Landlord is claiming \$18.99 to repair a screen door. I accept that the screen door required repair at the end of the tenancy. As such, I award the Landlord **\$18.99** for the screen door repair.

The Landlord is claiming \$207.86 in relation to unpaid utility bills. I accept that the Tenants were responsible for paying 65% of the utilities to the Landlord. I accept that the Tenants failed to pay the final utility bills near the end of the tenancy. Based on the utility bills provided by the Landlord, I find that the Landlord is entitled to compensation in the amount of **\$207.86** for unpaid utilities.

Having been partially successful, I find the Landlord is entitled to recover the **\$100.00** filing fee paid to make the Application. I also find it appropriate in the circumstances to order that the Landlord retain \$1,045.92 from the \$2,300.00 security deposit held in satisfaction of the claim ( $\$2,300.00 - \$1,045.92 = \$1,254.08$ )

Pursuant to section 67 of the *Act*, I find the Tenants are entitled to a monetary order in the amount of \$1,254.08, which represents the remaining balance of their security and pet damage deposits less the previously mentioned deductions.



Conclusion

The Landlord has established an entitlement to monetary compensation in the amount of \$1,045.92 which has been deducted from the deposits held by the Landlord. The Tenants are granted a monetary order in the amount of \$1,254.08 which represents the remaining balance of the Tenants' deposits. The order should be served to the Landlord as soon as possible and may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: April 7, 2022

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Residential Tenancy Branch