



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GREATER VICTORIA HOUSING
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **MNDL-S, FFL**

Introduction

This hearing dealt with the Landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

1. An Order for the Tenant to pay to repair the damage that they, their pets or their guests caused during their tenancy – holding security and/or pet damage deposit pursuant to Section 38 of the Act; and,
2. Recovery of the application filing fee pursuant to Section 72 of the Act.

The hearing was conducted via teleconference. The Landlord attended the hearing at the appointed date and time and provided affirmed testimony. The Tenant did not attend the hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord and I were the only ones who had called into this teleconference. The Landlord was given a full opportunity to be heard, to make submissions, and to call witnesses.

I advised the Landlord that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. The Landlord testified that he was not recording this dispute resolution hearing.

The Landlord testified that they served the Tenant with the Notice of Dispute Resolution Proceeding package on December 22, 2021 by Canada Post registered mail (the "NoDRP package"). The Landlord referred me to the Canada Post registered mail receipt with tracking number submitted into documentary evidence as proof of service. I noted the registered mail tracking number on the cover sheet of this decision. I find that

the Tenant was deemed served with the NoDRP package five days after mailing them on December 27, 2022 in accordance with Sections 89(1)(c) and 90(a) of the Act.

Issues to be Decided

1. Is the Landlord entitled to an Order for the Tenant to pay to repair the damage that they, their pets or their guests caused during their tenancy – holding security and/or pet damage deposit?
2. Is the Landlord entitled to recovery of the application filing fee?

Background and Evidence

I have reviewed all written and oral evidence and submissions before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The Landlord testified that this periodic tenancy began on September 6, 2019. Monthly rent was \$546.00 payable on the first day of each month. A security deposit of \$422.50 was collected at the start of the tenancy and is still held by the Landlord. The tenancy ended on November 30, 2021, but the Tenant vacated on December 2, 2021. The current Landlord took over the operation and management of the residential property on December 1, 2021.

The Landlord uploaded the move-in condition inspection report which the Tenant participated in. The Landlord conducted the move-out condition inspection without the Tenant as she informed the Landlord she would not be attending the inspection. The Tenant provided her forwarding address prior to vacating the rental unit.

Based on a letter dated December 8, 2021 sent to the Tenant from the previous manager, the current Landlord is claiming compensation for the following items:

COMPENSATION LANDLORD IS SEEKING:	
Two days of overholding	\$35.22
Carpet cleaning	\$201.60
Cleaning of full unit	\$300.00
Load/hauling items and garbage	\$512.50
Unreturned laundry key	\$4.25
SUBTOTAL FOR COMPENSATION:	\$1,053.57

The Landlord is seeking monetary compensation totalling \$1,053.57.

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.

This hearing was conducted pursuant to RTB Rules of Procedure 7.1 and 7.3, in the Tenant's absence, therefore, all the Landlord's testimony is undisputed. Rules of Procedure 7.1 and 7.3 state:

7.1 Commencement of the hearing: *The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.*

7.3 Consequences of not attending the hearing: *If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.*

Section 57(3) of the Act states a landlord may claim compensation from an overholding tenant for any period that the overholding tenant occupies the rental unit after the tenancy is ended. The Landlord testified that the Tenant stayed two days beyond when her tenancy ended. I find the Landlord is entitled to claim compensation for the two days the Tenant overheld totalling **\$35.22**.

Section 37(2) of the Act sets out the requirement when leaving the rental unit at the end of the tenancy. It states:

Leaving the rental unit at the end of a tenancy

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(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 carpet cleaning costs, costs to clean the rental unit, and hauling items and garbage left by the Tenant at the end of the tenancy. I find, based on the undisputed testimony of the Landlord, that they are entitled to compensation for these cleaning costs totalling (\$201.60+\$300.00+\$512.50) **\$1,014.10**.

The Tenant is responsible to return all keys at the end of the tenancy, including those keys to gain access to common areas under the Landlord's control. Section 6(1) of the *Residential Tenancy Regulation* states that if a landlord provides a tenant with a key or other access device, the landlord may charge a fee that is refundable upon return of the key or access device, and no greater than the direct cost of replacing the key or access device. I find that the Tenant did not return the laundry key at the end of the tenancy as noted in the move-out condition inspection report. I find the Landlord is entitled to compensation for the cost of replacing this key, which is minimal, totalling **\$4.25**.

Further to the previous manager's December 8, 2021 letter to the Tenant, and pursuant to Section 38(4)(b) of the Act, the Landlord is entitled to compensation totalling \$1,053.57. Pursuant to Section 72(2)(b) of the Act, I order that the Landlord is authorized to retain the security deposit held by the Landlord in partial satisfaction of the monetary award. Since the Landlord was successful in their claim, I grant them recovery of the application filing fee pursuant to Section 72(1) of the Act. The Landlord's total Monetary Award is calculated as follows:

Monetary Award

Landlord's Monetary Claim:	\$1,053.57
Less security deposit:	-\$422.50
Plus application filing fee:	\$100.00
TOTAL Monetary Award:	\$731.07

Conclusion

I grant a Monetary Order to the Landlord in the amount of \$731.07. The Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this

Order, this Order may be filed in the Small Claims Division of the Provincial Court of British Columbia 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: August 04, 2022

Residential Tenancy Branch