



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SHAPE PROPERTIES CORP.  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      **MNDL-S, FFL**

### **Introduction**

This hearing dealt with the Landlord's Application for Dispute Resolution, made on February 11, 2022 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage to the unit, site, or property; and
- an order to retain the security deposit; and
- an order granting recovery of the filing fee.

The Landlord's Agent and the Tenant attended the hearing at the appointed date and time. At the start of the hearing, the Tenant confirmed receipt of the Landlord's Application and documentary evidence. As such, I find these documents were sufficiently served pursuant to Section 71 of the *Act*. The Tenant confirmed that she did not submit any documentary evidence in response to the Application.

The parties 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 to the rental unit, pursuant to Section 67 of the *Act*?
2. Is the Landlord entitled to retaining the security deposit, pursuant to Section 38, and 72 of the *Act*?

3. Is the Landlord entitled to an order granting recovery of the filing fee, pursuant to Section 72 of the *Act*?

### Background and Evidence

The parties testified and agreed to the following; the tenancy began on December 1, 2020. During the tenancy, the Tenants were required to pay rent in the amount of \$2,850.00 which was due on the first day of each month. The Tenant paid a security deposit in the amount of \$1,425.00 which the Landlord continue to hold. The tenancy ended on January 31, 2022.

The parties agreed that they came together at the end of the tenancy to complete a condition inspection of the rental unit. The Landlord's Agent stated that it was noted that the rental unit required further cleaning and that the walls were damaged throughout the rental unit. The Landlord provided a copy of the condition inspection report as well as pictures of the walls in the rental unit in support.

The Landlord's Agent stated that the Landlord is claiming \$80.00 for cleaning and \$500.00 for painting the entire rental unit. The Landlord provided a copy of an invoice for painting in the amount of \$787.50, however, the Landlord's Agent stated that the Landlord is only seeking \$580.00 as well as the return of the filing fee.

The Tenant responded by stating that the charges are unfair. The Tenant stated that the damage noted by the Landlord can be attributed to regular wear and tear. The Tenant stated that they were careful with the rental unit throughout the tenancy and denied using any nails in the walls. The Tenant stated that they hung pictures with stickers, which is what can be seen in the Landlord's pictures. The Tenant confirmed that the stickers removed some paint when removed, however, stated that they were only used on one wall. The Landlord's Agent stated that there were stickers and damage found on several walls throughout the rental unit.

### Analysis

Based on the 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 Tenant. 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.

The Landlord is claiming \$80.00 for cleaning. I find that the Landlord provided sufficient evidence to demonstrate that some of the walls in the rental unit required cleaning. As such, I find the Landlord is entitled to compensation in the amount of **\$80.00**.

With respect to the Landlord's \$500.00 claim for painting the entire rental unit, I find that the Landlord provided insufficient evidence to demonstrate that the entire rental unit required repainting. I accept that the Tenant admitted to some minor damage while removing stickers from the wall. I find that the Landlord is entitled to recover a nominal award of compensation in the amount of **\$200.00**.

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 \$380.00 from the \$1,425.00 security deposit held in satisfaction of the claim ( $\$1,425.00 - \$380.00 = \$1,045.00$ )

Pursuant to section 67 of the *Act*, I find the Tenant is entitled to a monetary order in the amount of \$1,045.00, which represents the remaining balance of their security deposit less the previously mentioned deductions.

Conclusion

The Landlord has established an entitlement to monetary compensation in the amount of \$380.00 which has been deducted from the security deposit. The Tenant is granted a monetary order in the amount of \$1,045.00 which represents the remaining balance of the Tenant's security deposit. 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: September 27, 2022

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Residential Tenancy Branch