



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

MNDL-S, MNDCL-S, FFL

### **Introduction**

This hearing was convened in response to the Landlords' Application for Dispute Resolution, in which the Landlords applied for a monetary Order for money owed or compensation for damage or loss, for a monetary Order for damage to the rental unit, to keep all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

The male Landlord stated that on June 15, 2022 the Dispute Resolution Package and evidence submitted to the Residential Tenancy Branch in June of 2022 were sent to each Tenant, via registered mail, at the service address noted on the Application. The male Landlord stated that this service address was provided to the Landlord, via text message, on June 12, 2022.

The Landlords submitted a Canada Post documentation that corroborates packages were sent to the Tenants on June 15, 2022. The male Landlord stated that both packages were returned to the Landlords by Canada Post, as they were unclaimed. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenants did not appear at the hearing. As the documents were properly served to the Tenants, the evidence was accepted as evidence for these proceedings and the hearing proceed in the absence of the Tenants.

The participants were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each participant affirmed that

they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The participants were advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. Each participant affirmed they would not record any portion of these proceedings.

### Issue(s) to be Decided

Are the Landlords entitled to compensation for damage to the rental unit, to compensation for lost revenue, and to keep all or part of the security deposit?

### Background and Evidence

The Landlords contend that:

- the tenancy began on January 19, 2020;
- the unit was jointly inspected by the Landlord and the Tenant at the start of the tenancy;
- a condition inspection report was not completed at the start of the tenancy, as the Landlords did not realize one was required;
- when this tenancy ended the monthly rent was \$1,250.00;
- the Tenants paid a security deposit of \$625.00 and a pet damage deposit of \$625.00;
- on April 28, 2022 a One Month Notice to End Tenancy for Cause was personally served to the Tenant with the initials "JM";
- the One Month Notice to End Tenancy for Cause declared the rental unit must be vacated by May 31, 2022; and
- the rental unit was vacated on May 31, 2022.

The Landlords are seeking compensation for painting the rental unit. The Landlords submitted one estimate to show the rental unit could be painted for \$900.00 and a second estimate that shows it could be painted for \$1,500.00, although this second quite mentions other repairs.

The male Landlord stated that he painted the unit himself and that it took between 15 and 20 hours to repair the walls and paint the unit. The Landlord stated that he did not need to purchase paint, as he had some stored.

The Landlords submitted photographs of damage to the wall, which the male Landlord stated was not present at the start of the tenancy. He stated that the rental unit was last painted prior to the Landlords moving to the property in 2016.

In the Application for Dispute Resolution the Landlords declared that the "toilet pan and lid" were damaged. When asked to clarify this damage the male Landlord stated that the toilet seat simply needed to be tightened.

The Landlords are seeking compensation for repairing a plug for bathtub drain which was damaged during the tenancy. The Landlords submitted a photograph of the plug inside the bathtub, although that item appears to have been detached from the drain system.

The Landlords are seeking compensation for repairing an electrical outlet which was damaged during the tenancy. The Landlords submitted a photograph of the damaged outlet.

The male Landlord stated that he spent approximately  $\frac{3}{4}$  of an hour repairing the outlet. The male Landlord stated that no receipt was submitted to show the cost of the outlet. The female Landlord stated that she has a receipt that shows she purchased an item for \$21.93, although she does not know if this item was the outlet.

The Landlords are seeking compensation for cleaning the floor, which the Landlords submit required additional cleaning at the end of the tenancy. The male Landlord stated that the Landlords spent approximately 3.5 hours cleaning the floor.

The Landlords are seeking compensation for replacing a carbon monoxide detector. The male Landlord stated that one was provided at the start of the tenancy and this it was not left in the unit at the end of the tenancy. I do not have a receipt for the cost of replacing that item in the evidence before me.

The Landlords are seeking compensation of \$1,500.00 for lost revenue. The male Landlord stated that they needed to repair damages caused by the Tenants before they could advertise the rental unit and that they did not, therefore, begin advertising the unit until June 15, 2022. He stated that the rental unit was re-rented for July 01, 2022 and the Landlords are seeking compensation for lost revenue for the month of June.

At the hearing the male Landlord stated that they paid \$500.00 for an air quality test, which was needed because someone smoked in the unit.

### Analysis

Section 23(1) of the *Act* requires a landlord and a tenant to jointly inspect the rental unit at the start of the tenancy or on another mutually agreed upon day. On the basis of the undisputed testimony of the male Landlord, I find that the parties jointly inspected the unit at the start of the tenancy.

Section 23(4) of the *Act* requires a landlord to complete a condition inspection report after the unit is jointly inspected. On the of the undisputed testimony of the male Landlord, I find that the Landlord did not comply with section 23(4) of the *Act* when they did not complete a condition inspection report after the unit was jointly inspected at the start of the tenancy.

Section 24(2)(c) of the *Act* stipulates that the right of a landlord to claim against a security deposit or a pet damage deposit, or both, for damage to residential property is extinguished if the landlord does not complete the condition inspection report after the unit is jointly inspected. As the Landlords have also claimed for compensation for lost revenue in this Application for Dispute Resolution, I find that they have not extinguished their right to claim against the security/pet damage deposit.

When making a claim for damages under a tenancy agreement or the *Act*, the party making the claim has the burden of proving their claim. Proving a claim in damages includes establishing that damage or loss occurred; establishing that the damage or loss was the result of a breach of the tenancy agreement or *Act*; establishing the amount of the loss or damage; and establishing that the party claiming damages took reasonable steps to mitigate their loss.

Section 37(2) of the *Act* stipulates 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.

On the basis of the undisputed evidence I find that the Tenants failed to comply with section 37(2)(a) of the *Act* when the Tenants failed to repair damage to the walls that occurred during the tenancy.

As the Landlords did not submit any evidence to establish the cost of materials used to paint the unit, I am unable to grant compensation for such costs. I find that the Landlords are entitled to compensation for the approximately 17.5 hours the male Landlord spent repairing the walls painting the unit. I find that he is entitled to compensation at a rate of \$25.00 per hour, which I find be reasonable compensation for labour done on one's own property. I therefore find that the Landlords are entitled to compensation of \$437.50 for repairing/painting the walls.

On the basis of the undisputed testimony of the male Landlord, I find that the toilet seat needed tightening at the end of the tenancy. I find that this constitutes reasonable wear and tear, which the Tenants are not obligated to repair. I therefore find that the Landlords are not entitled to compensation for tightening the toilet seat.

I find that the Landlords have submitted insufficient evidence to establish that the plug in the bathtub drain was damaged due to excessive force or inappropriate use. In reaching this conclusion, I note there was nothing in the photograph to indicate inappropriate force was applied to that item. As I am aware that these plugs can become detached during normal use, I find it possible that the plug damage was the result of reasonable war and tear, which the Tenants are not obligated to repair. I therefore find that the Landlords are not entitled to compensation for repairing the plug.

On the basis of the undisputed evidence I find that the Tenants failed to comply with section 37(2)(a) of the *Act* when the Tenants failed to repair the electrical outlet that was damaged during the tenancy.

I find that the Landlords are entitled to compensation for the approximately  $\frac{3}{4}$  of an hour the male Landlord spent repairing the walls painting the unit. I find that he is entitled to compensation at a rate of \$25.00 per hour, which I find be reasonable compensation for labour done on one's own property. I therefore find that the Landlords are entitled to compensation of \$18.75 for repairing/painting the outlet.

I find that the Landlords did not submit sufficient evidence to establish the cost of the electrical outlet. Although the female Landlord stated that she has a receipt that shows she purchased an item for \$21.93, she does not know if this item was the outlet. I find it

is mere speculation that the item purchased was an outlet and I find it unlikely that an outlet would be that expensive. As the Landlords have failed to establish the cost of the outlet, I will not be granting compensation for that cost.

On the basis of the undisputed evidence I find that the Tenants failed to comply with section 37(2)(a) of the *Act* when the Tenants failed to leave the floor in reasonably clean condition. I therefore find that the Landlords are entitled to compensation at a rate of \$25.00 per hour for the 3.5 hours they spent cleaning the floor, which is \$87.50.

On the basis of the undisputed evidence I find that the Tenants failed to comply with section 37(2)(a) of the *Act* when the Tenants did not leave a carbon monoxide tester in the unit that was provided to them by the Landlords. As there is no documentary evidence before me to establish the cost of that item, I am unable to award compensation for that item.

As there was absolutely no mention of an air quality test in the Application for Dispute Resolution, I decline to consider a test for such costs. I am unable to consider a claim that has not been disclosed to the Tenants.

While I accept that the rental unit needed painting and some relatively minor repairs were required, I do not find that the repairs were so significant that the rental unit could not be re-rented on June 01, 2022. The vast majority of landlords are able to repaint a rental unit between tenancies, albeit with the aid of a professional company. I therefore dismiss the Landlord's claim for lost revenue.

I find that the Landlord's Application for Dispute Resolution has merit and that the Landlords are entitled to recover the fee for filing this Application for Dispute Resolution.

### Conclusion

The Landlord has established a monetary claim, in the amount of \$643.75, which includes \$437.50 for painting/repairing walls, \$18.75 for repairing an electrical outlet, \$87.50 for cleaning, and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlords to retain \$643.75 from the Tenant's security deposit in full satisfaction of this monetary claim.

As the Landlords have not established the right to retain all of the security/pet damage deposit, I find that they must return the remaining \$606.25 to the Tenants. Based on these determinations I grant the Tenants a monetary Order for \$606.25. In the event the Landlords do not voluntarily comply with this Order, it may be served on the Landlords, filed with the Province of British Columbia 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: February 03, 2023

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Residential Tenancy Branch