



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

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

### **Introduction**

This hearing dealt with an application by the landlords pursuant to the Residential Tenancy Act (“Act”) for orders as follows:

- for a monetary order for unpaid rent and a request to retain the security deposit pursuant to section 67 of the Act
- for a monetary order for damages and a request to retain the security deposit pursuant to section 67 of the Act
- for reimbursement of the filing fee pursuant to section 72 of the Act

Landlords’ agent KG and tenant RJ appeared. All parties were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses.

The hearing was conducted by conference call. The parties were reminded to not record the hearing pursuant to Rule of Procedure 6.11. The parties were affirmed.

The landlords’ agent testified that he served the dispute notice and respective materials on the tenant by registered mail. The package was sent to the rental address as the tenant refused to provide the landlords with a forwarding address. The landlords’ agent testified he had a discussion with the tenant on June 16, 2022 and the tenant advised the landlords’ agent that she had forwarding mail set up at the rental unit. The tenant does not recall receiving the landlords’ package but does not dispute the landlords’ version of events. and based on their testimonies I find the tenant duly served with the dispute notice and evidence package in accordance with sections 88 and 89 of the Act.

### **Issue(s) to be Decided**

1. Are the landlords entitled to an order for unpaid rent and to retain the security deposit in partial satisfaction of same?
2. Are the landlords entitled to an order for damages and to retain the security deposit in partial satisfaction of same?
3. Are the landlords entitled to recover the filing fee for this application?

### Background and Evidence

The tenancy commenced on June 1, 2020. Rent was \$1,100.00 per month due on the first of the month. The landlords still hold a security deposit in the amount of \$550.00 in trust for the tenant. The tenant vacated the rental unit on April 11, 2022.

### *Move in/Move Out Condition Inspection Reports*

The undisputed evidence of the parties is that a move in inspection was completed and a report was prepared, signed by the parties, and a copy was provided to the tenant.

There is no dispute between the parties that the landlords offered the tenant the opportunity to participate in a move out condition inspection by way of text sent April 11, 2022. In that text the landlords' agent offered two separate dates to the tenant to complete the move out condition inspection and the tenant did not respond. The tenant added that she was unable to complete the move out inspection as requested due to her stress at the time.

### *Unpaid Rent*

The landlords' agent testified that the tenant did not pay rent for February, March and April, 2022. The total amount of rent outstanding is \$3,300.00.

The tenant did not dispute that she had not paid rent for those months and explained that a number of things that were occurring in her life including her employment that were causing stress which is why she failed to pay rent.

### *Damage*

The landlords' agent stated that there was damage caused to the rental unit during the tenancy. The landlords provided photos of the condition of the rental unit at the end of the tenancy. The landlords' agent alleged that the rental unit was unclean, the living

room blinds were significantly damaged, the carpet and baseboard were damaged and there was debris left in the yard. The landlords provided receipts in evidence for the cost of the cleanup, including general cleaning, waste removal, carpet cleaning, and materials related to the replacement of the trim in the rental unit. No receipt was provided for the blinds.

The landlords also provided a monetary worksheet in evidence listing the items included in their monetary claim for damages:

<i>Document Number</i>	<i>Receipt / Estimate From</i>	<i>For</i>	<i>Amount</i>
#1	Citrus O	Carpet Cleaning	\$238.30
#2	Home Depot	Trim and Fill	\$208.26
#3	Home Depot	Nails for Trim	\$11.14
#4	Home Depot	Nail Gun Rental	\$46.89
#5	Teejay Labatos	Cleaning	\$200
#6	Metro Vancouver Transfer	Waste Dumping	\$40

The tenant stated that one of the photos depicted debris left from the upstairs tenant, the other photo depicted garbage cans and recycling containers. The tenant admitted leaving materials in the containers supplied by the landlords, including recycling. There were organics left in the container supplied by the landlords for organics.

The tenant agreed that the damage caused to the blinds was her responsibility. The tenant also agreed that the place was not left in a clean state.

The tenant stated that a flood occurred in the rental unit in either January or February 2022. The tenant stated she advised the landlords of the flood, and the landlords reimbursed her for her expenses related to the towels she used to clean up the flood mess. A plumber hired by the landlords stated that there was no reasonable way to repair the plumbing to prevent further flooding. The landlords' agent responded that if a flood had occurred, it would not have caused the damage shown in the pictures.

## Analysis

Section 67 of the Act establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. As noted in Policy Guideline #16, in order to claim for damage or loss under the Act, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the Act on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlords to prove their entitlement to a claim for a monetary award.

The undisputed evidence is that the tenant failed to pay rent in the amount of \$3,300.00. therefore, the landlords' claim for unpaid rent is granted.

With respect to damage to the rental unit, the tenant is not disputing the cleaning charge. I find that the landlords are entitled to compensation for cleaning in the amount of \$200.00 as per the cleaning receipt provided in evidence.

With respect to the flooding and damage to the baseboards and carpets, the tenant did not provide any evidence showing that a flood occurred in the rental unit or the damage done to the unit as a result of the flooding. RTB Policy Guideline 1 states:

The Landlord is responsible for ensuring that rental units and property, or manufactured home sites and parks, meet "health, safety and housing standards" established by law, and are reasonably suitable for occupation given the nature and location of the property. The tenant must maintain "reasonable health, cleanliness and sanitary standards" throughout the rental unit or site, and property or park. The tenant is generally responsible for paying cleaning costs where the property is left at the end of the tenancy in a condition that does not comply with that standard. The tenant is also generally required to pay for repairs where damages are caused, either deliberately or as a result of neglect, by the tenant or his or her guest. The tenant is not responsible for reasonable wear and tear to the rental unit or site (the premises)<sup>2</sup>, or for cleaning to bring the premises to a higher standard than that set out in the Residential Tenancy Act or Manufactured Home Park Tenancy Act (the Legislation).

Her contact with the landlords regarding the flood seemed to be minimal, and it is reasonable to believe that if the flooding had been as substantial as she suggested, that

the rental unit would have likely been uninhabitable, or the landlords would have been much more significantly involved in the clean up.

I find that the landlords have established that the damage caused to the carpets and baseboards were the responsibility of the tenant and the landlords are entitled to compensation in the amount of \$485.81. I note that in coming to that figure the landlords had the incorrect amount for the rental of the nail gun as they appeared to have included the deposit which was returned to them. The correct amount for the nail gun rental is \$28.11.

I do not find that the landlords have established their claim for dumping fees for the yard debris. I find based on the photographic evidence that the debris would have been picked up by city waste removal. Therefore, I am not awarding compensation for this head of damage.

The total amount of compensation for damage that the landlords are entitled to is \$685.81. I note that the landlords did not provide a receipt or list the damaged blinds as a claim on the monetary order worksheet.

### *Security Deposit*

The landlords are seeking to retain the security deposit of the tenant in partial satisfaction of the claim for rent and damages.

Pursuant to sections 24 and 36 of the Act, landlords and tenants can extinguish their rights in relation to security and pet damage deposits if they do not comply with the Act and Residential Tenancy Regulation (the "Regulations"). Further, section 38 of the Act sets out specific requirements for dealing with security and pet damage deposits at the end of a tenancy.

Based on the undisputed testimony of the landlords' agent about a move-in inspection and the condition inspection report, I find the landlords did not extinguish their rights in relation to the security or pet damage deposits pursuant to section 24 of the Act. Based on the undisputed testimony of the agent about a move-in inspection and the CIR, I find the tenant did not extinguish their rights in relation to the security or pet damage deposits pursuant to section 24 of the Act. Both parties agree that the report was completed, and the tenant signed the report and was given a copy.

Based on the undisputed testimony of the landlords' agent about a move-out inspection, I find the landlords did provide the tenant two opportunities to do a move-out inspection. I note that the only method of contact that the landlords had with the tenant was through texts, as the tenant was refusing to provide a forwarding address. The landlords' agent was only in contact with the tenant by email as is clear from the evidence and therefore could not have served a Notice of Final Opportunity on the RTB form on the tenant.

The tenant did not, and has still not, provided a forwarding address to the landlords. Therefore, the landlords have no obligation under section 38 of the Act to return the security deposit at this point.

I find that the landlords are entitled to retain the security deposit in partial satisfaction of their compensation.

### Conclusion

The landlord is granted a monetary order in the following amount:

Claim	Amount
Unpaid Rent	\$3,300.00
Carpet cleaning	\$238.30
Cleaning	\$200.00
Trim replacement material	\$208.26
Nails	\$11.14
Nail gun rental	\$28.11
Filing fee	\$100.00
Less security deposit	(\$550.00)
<b>Total</b>	<b>\$3,535.81</b>

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: February 22, 2023

---

Residential Tenancy Branch