



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing

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## **DECISION**

Dispute Codes      MNRL-S, MNDL-S, FFL, MNSDS-DR, FFT

### Introduction

This is an application under the *Residential Tenancy Act* (“Act”) by the landlords for compensation against the tenants. By way of cross application, the tenants seek the return of their security deposit.

The second hearing of this application occurred on Friday, December 8, 2023, at 11:00 a.m. Only the agent for the landlords attended the hearing, which ended at 11:11 a.m. The landlords’ agent confirmed that they had successfully served their evidence upon the tenants, and that the tenants acknowledged receipt of this evidence, all of which was required pursuant to the Interim Decision of November 24, 2023.

### Issue

Is the landlord entitled to compensation?

### Evidence and Analysis

In an application under the Act, an applicant must prove their claim on a balance of probabilities. Stated another way, the evidence must show that the events in support of the claim were more likely than not to have occurred. I have reviewed and considered all the evidence but will only refer to that which is relevant to this decision.

The tenancy began on April 1, 2022, and ended on April 30, 2023. Monthly rent was \$5,000.00 during most of the tenancy but was increased (in compliance with the Act) by \$100.00 to \$5,100.00 effective April 1, 2023. There is a \$2,500.00 security deposit in trust with the landlords pending the outcome of these applications.

The landlords seek \$1,505.83 for cleaning and carpet shampooing, \$551.25 for minor repairs and patching, \$511.23 for a window replacement, \$100.00 for a missed rent (that was due on April 1, 2023, after the rent increase went into effect), and \$100.00 for the Residential Tenancy Branch application fee, for a total of \$2,768.31.

The landlords' agent testified that all these costs were caused by the tenants' negligence, and he referred me to specific photographs taken of the rental unit.

Additional documentary evidence consisted of the following: 87 photographs; a condition inspection report completed at move in and move out; invoices; a rent receipt showing rent of \$5,000 (and not \$5,100) received by the landlord on April 1, 2023; and a monetary order worksheet summarizing the amount claimed.

Section 7 of the Act states that if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results. A party seeking compensation must do whatever is reasonable to minimize their loss.

Section 67 of the Act permits an arbitrator to determine the amount of, and order a party to pay, compensation to another party if damage or loss results from a party not complying with the Act, the regulations, or a tenancy agreement.

Section 37 of the Act requires 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.

Taking into consideration all of the undisputed oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlords have met the onus of proving their claim for compensation for the cleaning and repairs. The tenants breached section 37 of the Act and the landlords suffered a loss due to that breach.

In respect of the rent, section 26 of the Act requires a tenant to pay rent when it is due. The rent increase that went into effect on April 1, 2023, required the tenants to pay \$5,100.00. They only paid \$5,000.00, and thus they owe the landlords \$100.00.

The landlords are also awarded an additional \$100.00 to compensate them for the cost of the application fee, pursuant to section 72 of the Act.

In total, the landlords are awarded \$2,768.31. The landlords are ordered and authorized to retain the tenants' \$2,500.00 security deposit in partial satisfaction of the amount awarded. The balance of the amount owing, \$268.31. A monetary order in this amount is issued with this decision to the landlords and who must serve a copy of the order upon the tenants.

Last, the agent submitted, in the hearing, that the landlords request to add an additional \$500.00 to their claim for costs related to the property management company to represent them in these proceedings.

Under section 7 of the Act, a party is expected to do whatever is reasonable to minimize their losses. The Residential Tenancy Branch dispute resolution process is, as recently described by the Supreme Court of British Columbia, "designed for parties to appear on their own behalf" (*Panaich v. Martin*, 2023 BCSC 2149, at para. 25). I see no explanation, other than that of convenience, why the landlords could not have represented themselves in these proceedings to minimize the cost of these proceedings. As such, I respectfully decline to grant this additional claimed amount.

Conclusion

**The landlords' application is granted.**

**The landlords are authorized to retain the tenants' \$2,500.00 security deposit and the tenants are ordered to pay \$268.31 to the landlords.**

**The tenants' application is dismissed, without leave to reapply.**

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: December 8, 2023

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Residential Tenancy Branch