

# **Dispute Resolution Services**

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# Residential Tenancy Branch Office of Housing and Construction Standards

#### **DECISION**

#### <u>Introduction</u>

This hearing was convened in response to two Applications for Dispute Resolution, both of which were filed by the Landlord.

In the first Application for Dispute Resolution, the Landlord applied for a Monetary Order for money owed or compensation for damage or loss, a Monetary Order for damage to the rental unit, and to recover the fee for filing this Application for Dispute Resolution.

In the second Application for Dispute Resolution, the Landlord applied for a Monetary Order for money owed or compensation for damage to the rental unit and to retain the security deposit.

KH stated that on February 15, 2024, the first Application for Dispute Resolution and Proceeding Package were sent to each Tenant, by registered mail. Each Tenant acknowledged receiving these documents and I find they were served in accordance with section 89 of the Act.

KH stated that on February 29, 2024, the second Application for Dispute Resolution and Proceeding Package were sent to each Tenant, by registered mail. Each Tenant acknowledged receiving these documents and I find they were served in accordance with section 89 of the Act.

In March and April of 2024, the Landlord submitted evidence to the Residential Tenancy Branch. KH stated that all of this evidence was served to the Tenant on April 25, 2024, via email. The Tenant acknowledged receipt of this evidence and it was accepted as evidence for these proceedings.

On March 21, 2024, the Tenant submitted evidence to the Residential Tenancy Branch. SOJ stated that this evidence was not served to the Landlord. As it was not served to the Landlord, it was not accepted as evidence for these proceedings.

On May 19, 2024, the Tenant submitted evidence to the Residential Tenancy Branch. TN stated that this evidence was served to the Landlord, by email, on May 26, 2024. The Landlord acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each party affirmed that they would provide the truth, the whole truth, and nothing but the truth at these proceedings.

### Issue(s) to be Decided

Is the Landlord entitled to compensation for a damaged front door? Is the Landlord entitled to compensation for unpaid utilities? Is the Landlord entitled to keep all or part of the security deposit?

## Background and Evidence

The Landlord submitted a tenancy agreement which names TMTN as a tenant plus a third party who is not named as a Respondent in this Application for Dispute Resolution. This agreement is for a tenancy that began on February 01, 2023.

The Landlord submitted a RTB-26, which also names AH as a party to the tenancy agreement of February 01, 2023.

The Landlord submitted a "British Columbia Residential Branch Tenancy Addendum", which names TMTN, AH, and SOJ. This addendum has been signed by these three parties. The addendum outlines various terms related to occupancy of the rental unit.

The Tenant submits that TMTN and AH moved into the unit in January of 2023, and that SOJ moved into the unit on August 15, 2023. The Landlord submits that TMTN and AH moved into the unit in February of 2023, and that SOJ moved into the unit on August 15, 2023.

The Landlord and the Tenant agree that AH and SOJ moved out of the rental unit on January 31, 2024 and that TMTN moved out on December 01, 2023.

The Landlord and the Tenant agree that TMTN moved into a different area of the residential complex, under a separate tenancy agreement, on December 01, 2023.

KH stated that a security deposit of \$1,000.00 was paid on January 07, 2023 and another \$750.00 was paid on January 10, 2023. TMTN stated that the entire security deposit of \$1,750.00 was paid to the Landlord on January 07, 2023. SOJ stated that she paid \$550.00 to TMTN for a portion of the security deposit but she does not know when the security deposit was paid to the Landlord.

The LL and the Tenant agree that SOJ provided a forwarding address to the Landlord, by text message, on February 07, 2024; that TMTN provided a forwarding address to the Landlord, by text message, on February 07, 2024; and that AH provided a forwarding address to the Landlord, by text message, on February 08, 2024.

The Landlord is seeking compensation for repairing the front door. The Landlord submitted photographs of the front door, in which some scratches can be seen.

In support of the claim for the damaged door, KH stated that:

- The door is 15 years old
- The door was not damaged prior to the start of the tenancy
- The photographs do not fairly represent the damage on the door.

In response to the claim for the door, Tenant acknowledges that the damage occurred during the tenancy; however the Tenant submits it is normal wear and tear. AH describes the damage as very small scratches.

The Landlord is seeking compensation for unpaid utilities.

KH stated that the Tenant was required to pay 3/5 of all utility bills. The Landlord is of the opinion that each Respondent must individually pay 1/5 of each bill. SOJ stated that the Tenant was required to pay 60% of all utility bills.

The Landlord submitted a hydro bill for the period between January 06, 2024 and March 06, 2024, in the amount of \$191.39.

The Landlord and the Tenant agree that TMTN paid \$38.27 towards this bill and that the Tenant did not pay any other amount toward the bill.

The Landlord submitted a hydro bill for the period between November 04, 2023 and January 05, 2024, in the amount of \$178.42.

The Landlord and the Tenant agree that TMTN paid \$35.68 towards this bill and that the Tenant did not pay any other amount toward the bill.

The Landlord submitted a gas bill for the period between January 11, 2024 and February 07, 2024, in the amount of \$205.92.

The Landlord and the Tenant agree that TMTN paid \$41.18 towards this bill and that the Tenant did not pay any other amount toward the bill.

The Landlord submitted a gas bill for the period between December 09, 2023 and January 10, 2024, in the amount of \$223.86.

The Landlord and the Tenant agree that TMTN paid \$44.77 towards this bill and that the Tenant did not pay any other amount toward the bill.

The Landlord submitted a water bill for the period between October 01, 2023 and January 31, 2024, in the amount of \$528.54.

The Landlord and the Tenant agree that TMTN paid \$105.71 towards this bill and that the Tenant did not pay any other amount toward the bill.

#### Analysis

I find that AH, TMTN, and SOJ entered into a tenancy agreement with the Landlord. Although only TMTN signed the actual tenancy agreement, all parties signed the addendum to the tenancy agreement. It is clear that AH and SOJ consider the addendum to be their tenancy agreement.

On the basis of this documentary evidence and the testimony of the parties, I find that they had, at minimum, an oral tenancy agreement, which meets the definition of a tenancy agreement. I find that these 3 parties were jointly occupying the rental unit on the basis of that tenancy agreement.

As all 3 parties were jointly occupying the rental unit on the basis of one tenancy agreement, I find they are jointly liable for all debts associated to this tenancy.

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.

In the case of verbal testimony when one party submits their version of events and the other party disputes that version, it is incumbent on the party bearing the burden of proof to provide sufficient evidence to corroborate their version of events. In the absence of any documentary evidence to support their version of events or to doubt the credibility of the parties, the party bearing the burden of proof would fail to meet that burden.

Section 37(2)(a) 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.

Residential Tenancy Branch Policy Guideline #1 defines reasonable wear and tear as natural deterioration that occurs due to aging and other natural forces, where the tenant has used the premises in a reasonable fashion. An arbitrator may determine whether or not repairs or maintenance are required due to reasonable wear and tear or due to deliberate damage or neglect by the tenant.

On the basis of the photographs submitted in evidence, I find that the damage to the door is very minor and, as such, should be considered reasonable wear and tear. Although KH testified that the photographs do not fairly represent the damage to the door, I find they are consistent with AH's description of the damage. As tenants are not required to repair damage due to reasonable wear and tear, I dismiss the Landlord's claim for repairing the door.

On the basis of the undisputed testimony, I find that the Tenant was required to pay 60% of all utility charges incurred during the tenancy. As the Tenants are jointly liable for the tenancy, I find they are jointly responsible for paying the utility costs. To put it more simply, they are not individually responsible for paying 1/5 of the utilities.

As the tenancy had not ended when TMTN moved out of the rental unit in December of 2023, I find she remained liable for the obligations of this tenancy. Until such time as the tenancy was ended, TMTN remained obligated to pay for utilities even though TMTN had moved out of the unit.

On the basis of the undisputed evidence, I find that the Tenant only paid \$38.27 toward the hydro bill of \$191.39, which is for the period between January 06, 2024 and March 06, 2024.

As the tenancy ended when SOJ and AH vacated the unit on January 31, 2024, I find that the Tenant was obligated to pay their portion of the pro-rated bill. The rental unit was occupied for 26 days of this 32 day billing period, so the Tenant was obligated to pay their portion of 26/32 of this bill, which is \$155.50. The Tenant's portion of this prorated bill (60%) is \$93.30.

As the Tenant paid \$38.27 toward the bill for \$191.39, I find the Tenant still owes \$55.03 towards the bill.

On the basis of the undisputed evidence, I find that the Tenant only paid \$35.68 toward the hydro bill of \$178.42, which is for the period between November 04, 2023 and January 05, 2024 and March 06, 2024.

As the unit was occupied by two of the Respondents during this period, I find the Tenant is required to pay their portion (60%) of the bill, which is \$107.05. As the Tenant paid \$35.68 toward this bill I find the Tenant still owes \$52.02 towards the bill.

On the basis of the undisputed evidence, I find that the Tenant only paid \$41.18 toward the gas bill of \$205.92, which is for the period between January 11, 2024 and February 07, 2024.

As the tenancy ended when SOJ and AH vacated the unit on January 31, 2024, I find that the Tenant was obligated to pay their portion of the pro-rated bill. The rental unit was occupied for 20 days of this 27 day billing period, so the Tenant was obligated to pay their portion of 20/27 of this bill, which is \$152.53. The Tenant's portion of this pro-rated bill (60%) is \$91.52. As the Tenant paid \$41.18 toward this bill I find the Tenant still owes \$50.34 towards the bill.

On the basis of the undisputed evidence, I find that the Tenant only paid \$44.77 toward the gas bill of \$223.86, which is for the period between December 09, 2023 and January 10, 2024.

As the unit was occupied by two of the Respondents during this period, I find the Tenant is required to pay their portion (60%) of the bill, which is \$134.32. As the Tenant paid \$44.77 toward this bill I find the Tenant still owes \$89.55 towards the bill.

On the basis of the undisputed evidence, I find that the Tenant only paid \$105.71 toward the water bill of \$528.54, which is for the period between October 01, 2023 and January 31, 2024.

As the unit was occupied by at least two of the Respondents during this period, I find the Tenant is required to pay their portion (60%) of the bill, which is \$317.12. As the Tenant paid \$105.71 toward this bill I find the Tenant still owes \$211.41 towards the bill.

As I have concluded this tenancy ended on January 31, 2024 and the Landlord received a forwarding address for the Tenant on February 07, 2024, I find that the Landlord complied with section 38 of the Act when the Landlord made a claim against the deposit within 15 days of those two dates.

I find that the Landlord's Application for Dispute Resolution in which the Landlord claimed compensation for damage to the door is without merit. As such, I dismiss the Landlord's claim to recover the fee for filing that Application for Dispute Resolution.

The Landlord did not apply to recover the fee for filing the Application for Dispute Resolution in which the Landlord applied for compensation for unpaid utilities. As such, that fee has not been awarded.

#### Conclusion

The Landlord has established a monetary claim, in the amount of \$485.35 in compensation for unpaid utilities. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to keep \$485.35 from the Tenant's security deposit in full satisfaction of this monetary claim.

As the Landlord has failed to establish the right to retain the entire security deposit of \$1,750.00 plus interest of \$53.16, I find that the Landlord must return the remaining \$1,317.81 to the Tenant.

Based on these determinations I grant the Tenant a monetary Order for the balance \$1,317.81. This Monetary Order will be in the name of all the Respondents.

In the event the Landlord does not voluntarily comply with this Order, it may be served on the Landlord, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court. Any of the named Respondents have the right to enforce this Monetary Order, providing the amount has not been paid to at least one of the Respondents.

The Landlord is at liberty to pay the full \$1,317.81 to one of the Respondents, or to divide the payment in any way the Landlord sees fit.

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: May 28, 2024

Residential Tenancy Branch