



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Introduction**

This hearing was convened in response to cross applications.

The Landlord filed an Application for Dispute Resolution, in which the Landlord applied for a monetary Order for damage to the rental unit and to keep all or part of the security deposit.

The Tenant filed an Application for Dispute Resolution in which the Tenant applied for the return of the security deposit and to recover the fee for filing an Application for Dispute Resolution.

GG stated that the Landlord's Application for Dispute Resolution, the Dispute Resolution Package and the evidence the Landlord submitted to the Residential Tenancy Branch in March of 2024 were sent to the Tenant, by registered mail, on March 27, 2024. The Tenant acknowledged receipt of these documents and the evidence was accepted as evidence for these proceedings.

SS stated that the Tenant's Application for Dispute Resolution, the Dispute Resolution Package and the evidence the Tenant submitted to the Residential Tenancy Branch on May 06, 2024 were sent to the Landlord, by registered mail, in May of 2024. The Landlord acknowledged receipt of these documents and the evidence 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.

All documentary evidence accepted as evidence for these proceedings has been reviewed, although it is only referenced in this decision if it is directly relevant to my decision.

### Issue(s) to be Decided

Is the Landlord entitled to compensation for damage to the rental unit and to keep all or part of the security deposit?

Is the Tenant entitled to the return of the security deposit?

Is the Tenant entitled to recover the fee for filing an Application for Dispute Resolution?

### Background and Evidence

The Landlord and the Tenant agree that:

- the tenancy began in 2023
- the Tenant gave the Landlord notice that the Tenant intended to end the tenancy, effective January 31, 2024
- the Tenant agreed to pay monthly rent of \$1,700.00 by the first day of each month
- the Tenant paid a security deposit of \$850.00
- the Landlord did not have written authority to retain the security deposit
- the Tenant sent him a text message on January 28, 2024, in which the Tenant declared the unit was empty and that the Landlord could inspect it
- the Landlord inspected the unit on January 28, 2024 and advised the Tenant additional cleaning was required
- the Tenant told the Landlord additional cleaning would be completed on January 29, 2024.

SS stated the security deposit was paid on July 01, 2023. GG stated it was paid on July 15, 2023. Neither party submitted proof of the date of payment.

SS stated that a forwarding address was mailed to the Landlord on February 26, 2024. GG stated that it was received in early March of 2024.

The Landlord is seeking compensation, in the amount of \$189.00, for cleaning the rental unit.

The Landlord submitted photographs of the rental unit, which GG stated were taken between January 26, 2024 and January 28, 2024.

The Tenant submitted photographs of the rental unit which SS stated were taken on January 28, 2024. SS stated that additional cleaning was completed on January 29, 2024.

The Landlord is seeking compensation, in the amount of \$55.99, for replacing the locks.

GG stated that:

- the lock to the rental unit was changed on January 31, 2024 because the Tenant told the Landlord, on January 30, 2024, that the keys would not be returned and that he would remain for another month if the security deposit was not returned
- a lock was purchased on January 30, 2024
- the lock was changed on January 31, 2024.

SS stated that:

- on January 29, 2024, he told the Landlord that he forgot to return the keys to the unit and that he would do so on January 30, 2024
- when he returned to the unit on January 30, 2024, the locks had already been changed
- on January 30, 2024, he told the Landlord he would not be returning the keys and that he would remain for another month if the Landlord did not return the security deposit.

The Landlord is seeking compensation for repairing damage to the walls. The Landlord submitted photographs of scratches on the walls. GG stated that the walls were in good condition at the start of the tenancy.

SS stated that the damage to the walls depicted in those photographs were present at the start of the tenancy.

The Landlord is seeking compensation for replacing a burned countertop. GG stated that the countertop was in good condition at the start of the tenancy.

SS stated that the countertop was burned at the start of the tenancy.

The Landlord is seeking compensation for repairing the washing machine door, which was cracked near the hinge. GG stated that the door was in good condition at the start of the tenancy.

SS stated that the washing machine door was cracked at the start of the tenancy.

The Landlord is seeking compensation for repairing the pump in the washing machine. GG stated that in May of 2024 the new occupants, who moved into the unit in February of 2024, reported the washing machine was damaged. GG stated that a technician examined the washing machine and determined broken glass had damaged the pump. When asked how the Landlord knew the glass was placed in the washing machine by the Tenant, GG stated that the technician provided this information.

SS stated that they did not put glass in the washing machine.

### Analysis

On the basis of the undisputed evidence, I find that the Tenant paid a security deposit of \$850.00. I favor the Tenant's testimony that this deposit was paid on July 01, 2023, over the Landlord's testimony it was paid on July 15, 2023, as the Tenant's testimony was corroborated by a copy of an e-transfer, dated July 01, 2023.

Section 38 of the Act states that within 15 days of either the tenancy ending or the date that the landlord receives the tenant's forwarding address in writing, whichever is later, a landlord must repay a security/pet damage deposit plus interest to the tenant or make an application for dispute resolution to claim against it.

On the basis of the testimony of the Tenant and the Canada Post receipt that corroborates this testimony, I find that the forwarding address was mailed to the Landlord on February 26, 2024. As the Landlord does not recall precisely when this forwarding address was received, I find that it was deemed received on March 02, 2024, pursuant to section 90 of the Act.

As the forwarding address was provided, in writing, on March 02, 2024, the parties agree the tenancy ended on January 31, 2024, and the Landlord made their application on March 13, 2024, I find that the Landlord did make their application within 15 days of the tenancy ending and the forwarding address being received.

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.

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) of the *Act* requires a tenant to leave the unit reasonably clean, and undamaged except for reasonable wear and tear, at the end of the tenancy. Residential Tenancy Branch Guideline #1 stipulates, in part, that an arbitrator may determine whether or not the condition of premises meets reasonable health, cleanliness and sanitary standards, which are not necessarily the standards of the arbitrator, the landlord or the tenant.

I have viewed the photographs of the rental unit which were submitted as evidence by each party. Although I find those photographs show some areas of the unit, such as the baseboards and the shower door, needed additional cleaning when the photographs were taken, I find that the unit was left in reasonable clean condition. As the rental unit was left in reasonable clean condition, as is required by section 37(2) of the *Act*, I dismiss the Landlord's claim for cleaning the unit.

I find that the Landlord submitted insufficient evidence to establish that the locks were changed on January 30, 2024, as the Tenant asserts, as opposed to January 31, 2024, as the Landlord asserts. The Landlord bears the burden of proving when the locks were changed.

While I accept that the Tenant told the Landlord, on January 30, 2024, that the keys would not be returned unless the security deposit was refunded, I find the Tenant had the right to keep the keys until January 31, 2024, which was the official end date of the tenancy. As the Landlord has failed to establish that the locks were not changed until after the end date of the tenancy, I find I have insufficient evidence to establish that the

Tenant would not have returned the keys on January 31, 2024. I therefore find that the Landlord is not entitled to compensation for changing the locks and I dismiss the claim for changing the locks.

On the basis of the photographs submitted in evidence, I find that the walls were damaged at the end of the tenancy. I find that the Landlord submitted insufficient evidence, such as a condition inspection report, that corroborates GG's testimony that the walls were in good condition at the start of the tenancy or that refutes SS' testimony they damaged at the start of the tenancy. As the Landlord has failed to establish that the damage to the walls occurred during the tenancy, I dismiss the Landlord's claim for repairing the walls.

On the basis of the undisputed evidence, I find that the countertop was damaged at the end of the tenancy. I find that the Landlord submitted insufficient evidence, such as a condition inspection report, that corroborates GG's testimony that the countertop was in good condition at the start of the tenancy or that refutes SS' testimony it was damaged at the start of the tenancy. As the Landlord has failed to establish that the damage to the countertops occurred during the tenancy, I dismiss the Landlord's claim for replacing the countertop.

On the basis of the undisputed evidence, I find that the washing machine door was damaged at the end of the tenancy. I find that the Landlord submitted insufficient evidence, such as a condition inspection report, that corroborates GG's testimony that the door was in good condition at the start of the tenancy or that refutes SS' testimony it was damaged at the start of the tenancy. As the Landlord has failed to establish that the damage to the washing machine door occurred during the tenancy, I dismiss the Landlord's claim for repairing it.

I find that the Landlord submitted insufficient evidence to establish that the washing machine was damaged by glass left in the machine by the Tenant. The evidence shows that the rental unit was occupied by other occupants for at least 3 months before the glass was found in the machine. I find it entirely possible that the glass was introduced to the machine by the new occupants. I therefore dismiss the claim for repairing the washing machine pump.

As the Landlord has failed to establish grounds to keep any portion of the Tenant's security deposit, I find the Landlord must return the deposit of \$850.00 to the Tenant, plus interest of \$19.45.

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

### Conclusion

The Tenant has established a monetary claim, in the amount of \$969.45, which includes the return of the security deposit of \$850.00, plus interest of \$19.45 on the deposit, and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Based on these determinations I grant the Tenant a monetary Order for the \$969.45. 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.

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: June 25, 2024

---

Residential Tenancy Branch