



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## Decision

**Dispute Codes:** MND, MNDC, MNSD, FF

### Introduction

This hearing dealt with an application by the landlords for a monetary order as compensation for damage to the unit, site or property / compensation for damage or loss under the Act, regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee.

In a previous decision dated March 9, 2011, the dispute resolution officer dismissed the application with leave to reapply, and ordered that the landlords may serve the tenant by way of substituted service in care of the guarantor. Following from that decision and order, the landlords and the guarantor participated in this hearing and gave affirmed testimony.

### Issues to be decided

- Whether the landlords are entitled to any or all of the above under the Act, Regulation or tenancy agreement

### Background and Evidence

Pursuant to a written tenancy agreement, the fixed term of tenancy for 2 tenants was from January 1 to December 31, 2010. Monthly rent was \$1,900.00, and a security deposit of \$950.00 was collected. A move-in condition inspection and report were completed with the participation of both parties on December 29, 2009. 1 of the 2 tenants vacated the unit around the end of July 2010.

A move-out condition inspection and report were completed on December 31, 2010, with the participation of one of the landlords and the remaining tenant. The tenant's guarantor was unable to be present for the move-out condition inspection.

During the hearing the parties discussed the various aspects of the landlords' application, and undertook to achieve at least a partial resolution of the dispute.

## **Analysis**

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca/](http://www.rto.gov.bc.ca/) The particular attention of the parties is drawn to section 37 of the Act, which speaks to **Leaving the rental unit at the end of a tenancy**, and provides in part:

37(2) When a tenant vacates a rental unit, the tenant must

- (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and...

Based on the documentary evidence and the testimony of the parties, the various aspects of the landlords' application and my findings around each are set out below.

**\$120.00\***: repair broken fireplace / balcony door lock / dishwasher. Evidence submitted by the landlords includes a receipt for the full amount claimed. The receipt does not include a breakdown of cost assigned for repair of each of the 3 items identified, however, an indication of the need for all 3 items to be repaired appears on the move-out condition inspection report. In the result, I find that the landlords have established entitlement to the full amount claimed.

**\$36.13\***: repair light fixture & replace lightbulbs (\$13.79 & \$22.34). The tenant's guarantor does not dispute this aspect of the landlords' claim.

**\$150.00\***: clean carpets. Residential Tenancy Policy Guideline # 1 addresses "Landlord & Tenant – Responsibilities for Residential Premises," and provides in part:

Generally, at the end of the tenancy the tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year.

While the tenant's guarantor said his understanding was that the tenant had the carpets cleaned at the end of tenancy, the guarantor had no receipt in his possession. The landlords testified that the carpets had clearly not been cleaned by the tenant at the end of tenancy, and evidence submitted by the landlords includes a receipt for the cost claimed. Based on the documentary evidence and testimony, I find on a balance of probabilities that the landlords have established entitlement to the full amount claimed.

**\$1,000.00**: patching & painting of walls. The move-out condition inspection report includes reference to scratches, dirt, dents, nail holes and damage in general to various walls in the unit. Residential Tenancy Policy Guideline # 37 speaks to the "Useful Life of Work Done or Thing Purchased," and provides that the useful life of interior paint is 4

years. In consideration of 1 year's worth of wear and tear, and in the absence of photographs showing the condition of the walls, I find that the landlords have established entitlement limited to **\$750.00\***, or 75% of the amount claimed.

**\$25.00\***: *NSF fee*. The tenant's guarantor does not dispute this aspect of the landlords' claim.

**\$100.00\***: *replace FOB*. The tenant's initial appears on the move-out condition inspection report, acknowledging that "one fob not working." Accordingly, I find that the landlords have established entitlement to the full amount claimed.

**\$150.00\***: *replace 3 broken blinds*. The tenant's guarantor does not dispute this aspect of the landlords' claim.

**\$30.00\***: *replace broken refrigerator shelves*. The tenant's guarantor does not dispute this aspect of the landlords' claim.

**\$100.00\***: *general labour, including travel and miscellaneous cleaning*. The "Addendum" to the residential tenancy agreement includes the following provision under the heading – "Move-Out Cleaning:"

If tenants want landlords to do all or any of above cleanings and thereby want cleaning expenses to be deducted from their damage deposit, tenants agree to pay landlords additional \$100.00 to cover landlords' trips and time consumed.

Based on the testimony of the parties and documentary evidence which includes, but is not limited to, completed move-in and move-out condition inspection reports, I find that the landlords have established entitlement to the full amount claimed.

**\$50.00\***: *filing fee*. As the landlords have achieved a significant measure of success with their application, I find that they have established entitlement to recovery of the full filing fee.

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On July 6, 2011, the day before the hearing, the landlords faxed copies of 2 receipts to the Residential Tenancy Branch in support of their claim for additional costs incurred as a result of the tenancy (\$613.68 – dated June 19, 2011 and \$336.00 – dated June 29, 2011). The landlords testified that they also sent copies of these receipts to the tenant's guarantor by way of both, regular mail and e-mail. However, the tenant's guarantor testified that he had not either received the regular mail, or been able to confirm that he had received the landlords' e-mail.

Residential Tenancy Branch Rules of Procedure # 3.5 (b) provides:

3.5(b) If the time between the filing of the application and the date of the dispute resolution proceeding does not allow the five (5) day requirement of a) to be met, then the evidence must be received by the Residential Tenancy Branch and served on the respondent at least two (2) days before the dispute resolution proceeding.

Following from the above, I find that to consider the landlords' 2 receipts which the tenant's guarantor cannot confirm having yet received, and which were submitted "late" by the landlords to the Residential Tenancy Branch, would prejudice the tenant's guarantor. Accordingly, this aspect of the landlords' application is hereby dismissed with leave to reapply.

In summary, I find that the landlords have established a claim of \$1,511.13, as set out in detail above. I order that the landlords retain the security deposit of \$950.00 and I grant the landlords a monetary order under section 67 of the Act for the balance owed of \$561.13 ( $\$1,511.13 - \$950.00$ ).

### **Conclusion**

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlords in the amount of **\$561.13**. This order may be served on the tenant or by way of substituted service on the tenant's guarantor, filed in the 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 *Residential Tenancy Act*.

DATE: July 7, 2011

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Residential Tenancy Branch