



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MND, MNSD and FF

### Introduction

This hearing originally was convened on October 24, 2012 but was adjourned on the landlord's request with consent of the tenants.

By application of August 13, 2012, the landlord sought a monetary award for damage to the rental unit, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

### Issue(s) to be Decided

This matter requires a decision on whether the landlord is entitled to monetary award for the claims submitted and in what amounts.

Claims in damages require that several factors be taken into account: the comparison of move-in vs. move-out condition inspection reports, whether damages are proven and attributable to the tenants, normal wear and tear, depreciation, and whether amounts claimed are proven and reasonable. Damage or loss due to non-compliance with the legislation or rental agreement requires the claimant to take reasonable steps to minimize the loss claimed. The burden of proof falls to the applicant.

### Background, Evidence and Analysis

This tenancy began on April 1, 2011 and ended on July 31, 2012. Rent was \$2,000 per month and the landlord holds a security deposit of \$1,000. A pet damage deposit of \$1,000 was returned to the tenants on August 13, 2012.

During the hearing, the landlord submitted a copy of the rental agreement, move-in/move out condition inspection reports, photographs and an all inclusive receipt for

painting, cleaning, landscape clean up and refuse removal from a building maintenance company in support of her claims.

**Painting - \$500.** The invoice from the maintenance company hired by the landlord showed a charge of \$2,000 for painting the whole interior of the approximately 2,000 square foot house. The landlord claims a portion of this charge on the claim that the tenants had promised to paint a hallway and part of a staircase in exchange for early possession of the rental unit. This item is hand written into part IV of the move-in/move-out condition inspection report, an entry that the tenants said was not on the form when they signed it and declare they would not have made such an agreement. The balance of the claim is for repainting a bedroom to standard colors after the tenant did it in pastels, a change the tenant acknowledges. The tenants would have had their own copy of the condition inspection reports and could have submitted it into evidence if they were to contest the landlord's version. I find that the landlord is entitled to recover \$200 for repainting the bedroom and \$150 for the hall and staircase and award \$350 on this claim.

**General cleaning - \$850.** The maintenance company billed the landlord \$850 for move-out cleaning, a charge strongly contested by the tenants who stated they spent a substantial amount of time on the cleaning. However, on the basis of photographic evidence, but taking into account that the same company did the painting which would have involved some cleaning of its own, I find that the tenants are responsible for \$500 of the extra cleaning.

**Yard work.** The landlord did not specify an exact amount for yard work, but noted that the maintenance company had billed her \$2,200. On the basis of photographic evidence and debate between the parties on beginning and ending condition of the yard, I find the tenants responsible for \$200 of this claim.

**Refuse removal - \$400.** The tenants acknowledged that they had left some refuse behind, but that much had been left by the curb for regular pick up. Taking into account that the refuse removal would have included some pruning and other refuse resulting from work done by the maintenance company, and taking into account photographic evidence, I find the tenants are responsible for \$150 of this claim.

**Filing fee - \$50.** As the landlord's application has substantially succeeded on its merits, I find that she is entitled to recover the filing fee for this proceeding from the tenants.

**Security deposit – (\$1,000).** As authorized by section 72 of the *Act*, I order that the landlord retain the security deposit in set off against the balance owed to her by the tenant.

Thus, I find that the tenants owe to the landlord an amount calculated as follows:

|  |                  |
|--|------------------|
| Painting   | \$ 350.00        |
| Yard work  | 200.00           |
| Refuse removal                                   | 150.00           |
| Filing fee                                       | <u>50.00</u>     |
| Sub total  | \$1,250.00       |
| Less retained security deposit (No interest due) | <u>- 1000.00</u> |
| <b>TOTAL</b>                                     | <b>\$ 250.00</b> |

### Conclusion

In addition to authorization to retain the security deposit in set off, the landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for **\$250.00** for service on the tenants.

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: December 3, 2012.

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Residential Tenancy Branch