



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

A matter regarding ONNI PROPERTY MANAGEMENT SERVICES  
LTD. and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      **MNDL-S, FFL**

### **Introduction**

This hearing dealt with the Landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

1. An Order for the Tenant to pay to repair the damage that they, their pets or their guests caused during their tenancy – holding security and/or pet damage deposit pursuant to Sections 38 and 67 of the Act; and,
2. Recovery of the application filing fee pursuant to Section 72 of the Act.

The hearing was conducted via teleconference. The Landlord's Agent and the Tenant attended the hearing at the appointed date and time. Both parties were each given a full opportunity to be heard, to present affirmed testimony, to call witnesses, and make submissions.

Both parties were advised that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. Both parties testified that they were not recording this dispute resolution hearing.

Both parties acknowledged receipt of:

- the Landlord's Notice of Dispute Resolution Proceeding package and some evidence served by registered mail on July 26, 2022, Canada Post Tracking Number on cover sheet of decision, Tenant confirmed receipt, deemed served on July 31, 2022; and,

- the Landlord's second evidence package served by registered mail on March 13, 2023, Canada Post Tracking Number on cover sheet of decision, Tenant confirmed receipt, deemed served on March 18, 2023.

Pursuant to Sections 88, 89 and 90 of the Act, I find that both parties were duly served with all the documents related to the hearing in accordance with the Act.

### Issues to be Decided

1. An Order for the Tenant to pay to repair the damage that they, their pets or their guests caused during their tenancy – holding security and/or pet damage deposit pursuant to Sections 38 and 67 of the Act; and,
2. Recovery of the application filing fee pursuant to Section 72 of the Act.

### Background and Evidence

I have reviewed all written and oral evidence and submissions presented to me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The parties confirmed that this tenancy began as a fixed term tenancy on July 1, 2019. The fixed term ended on June 30, 2020, then the tenancy continued on a month-to-month basis. Monthly rent was \$1,674.00 payable on the first day of each month. A security deposit of \$825.00 and a pet damage deposit of \$825.00 were collected at the start of the tenancy. The tenancy ended on June 30, 2022. The Landlord returned \$305.00 to the Tenants.

The Landlord is seeking compensation from the Tenants to pay to repair damage caused during the Tenants' tenancy.

The Landlord testified that the amounts listed on their monetary order worksheet were pre-estimate charges for items they are claiming compensation.

The Landlord retained \$1,345.00 from the Tenants' deposits to cover damage, cleaning, and a flea inspection of the rental unit after the Tenants vacated.

### *Washing machine*

The Landlords seek \$502.96 compensation for replacement of a rubber bellow in the washing machine that had to be replaced because it was covered in mould. The washing machine was brand new when the Tenants moved in.

The appliance company letter uploaded in the Landlord's documentary evidence said the "rubber bellow had to be replaced due to a build-up of mold caused by the door of the washer being closed when the washer is not in use." The Landlord argued this was not normal wear and tear. They provided an owner's manual for the appliances in the rental unit to the Tenants. The Landlord said the washer manual states that users need to continue to perform monthly inspections of the rubber bellows. The Landlord said because of the lack of monthly cleaning and due to neglectful use by the Tenants, the bellow had to be replaced.

The Tenant said no washing machine that he has ever had, had to be left open when not in use. The washing machine is crammed in a tiny closet, and the washing machine door cannot be left open and also close the closet door. The Tenant does not know what the owner's manual said about keeping the door open when the washing machine was not in use, and the Landlord did not provide any evidence about this in his documentary evidence. The Tenant said this was reasonable wear and tear.

### *Cleaning*

The Landlord engaged a cleaning crew who spent two hours doing a general clean the rental unit. The Landlord stated he did not have the photos of the rental unit at the beginning of the tenancy and no pictures were uploaded showing an unclean rental unit at the end of the tenancy. The Landlord is claiming \$126.00 for the rental unit clean.

The Tenant said they were not in agreement with the cleaning charges proposed by the Landlord. They were told they had to hire a professional cleaner. The Tenant argued they are not required to clean the rental unit to a higher standard than what is provided in the Act and in the Policy Guidelines. The Tenant maintained they cleaned the rental unit to the level provided in the Act and the Policy Guidelines. The Tenant stated the Landlord has not provided any photos that demonstrate the rental unit was not cleaned.

### *Junk removal*

The Landlord testified they hired a junk remover to remove items dumped by the Tenants. The Landlord stated they are not responsible for BBQ tanks and suitcases. The Landlord is claiming \$577.50.

The Tenant claims the items in pictures uploaded by the Landlord are not the Tenants' garbage. When the Tenant was bringing his garbage at the end of his move down to the garbage compactor, he was told by a landlord worker to not put his stuff inside the compactor. The Tenant left them beside the garbage bin as per the worker's instructions.

Later that evening, the Tenant received an email from the Landlord telling him he is not allowed to leave his garbage outside the garbage bin, and would he please deal with it. The email continued that, if he chose to leave them, he would be charged \$500.00. The Tenant went back downstairs, and carefully read the sign to make sure he was not breaking any rules about what can be disposed of in the compactor, then he proceeded to put his garbage items in the compactor. He later received an email stating, "Upon [Building Caretaker] requesting that you remove the items from the back area of the garbage room, you proceeded to dispose of the items in the compactor which is meant for household waste." The Tenant maintains that he had not disposed of items that were prohibited as noted on the sign, and he stated this email proves that the pictures uploaded by the Landlord are not the Tenants' items as he properly disposed of their items in the garbage compactor.

The Landlord replied that just because an item fits in the garbage compactor, does not mean it should be put in there. The Landlord further claimed the Tenants left items outside their storage locker.

### *Flea inspection*

The Landlord claims \$210.00 for a flea inspection of the rental unit. Section 6 of the tenancy agreement additional terms deals with pets. In part it states, "An inspection of the Premises for the presence of fleas must be completed by a professional pest control company, at the sole cost of the Tenant, upon or earlier of the pet or the Tenant vacating the Premises." The Tenants must also provide a copy of the inspection report. The Tenants initialled this page of the additional terms. A Pet Agreement dated May 15, 2019 and signed by one Tenant was also uploaded by the Landlord. Section 8 states in part:

8. The Tenant must provide a copy of the flea inspection report and receipt for the inspection/treatment to the Landlord or Agent. The report must clearly state that the Premises are free of fleas. If the report states that there are fleas in the Premises, the Tenant must, at its sole cost, have the Premises treated by a professional pest control company to eliminate the fleas and must provide a copy of the invoice evidencing payment by the Tenant to the pest control company for such services, and any other evidence as may be reasonably required by the Landlord, to the Landlord or Agent as evidence of the elimination of the fleas in the Premises. Failure to provide a flea inspection report, and receipt of services to the Landlord will result in the tenant being charged \$200 which may be deducted against the pet deposit.

The Tenant submits he did sign the additional terms and the pet agreement, but he states he does not think it holds him accountable for things that are contradictory to the Act. A pet damage deposit is held for damage caused by a pet, not for arbitrary inspections or testing after a tenant moves out. He argues this is not a reasonable demand.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

### ***Leaving the rental unit at the end of a tenancy***

**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*

...

RTB Policy Guideline #16-Compensation for Damage or Loss addresses the criteria for awarding compensation to an affected party. This guideline states, "*The purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. It is up to the party who is claiming compensation to provide evidence to establish that compensation is due.*" This section must be read in conjunction with Section 67 of the Act.

Policy Guideline #16 asks me to analyze whether:

- a party to the tenancy agreement has failed to comply with the Act, Regulation, or tenancy agreement;
- loss or damage has resulted from this non-compliance;
- the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and,
- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

The Landlord's claim deals with damage to the rental unit or the rental unit being left unreasonably clean at the end of the tenancy. RTB Policy Guideline #1-Landlord & Tenant – Responsibility for Residential Premises ("PG#1") is a statement of the policy intent of the legislation and can assist the parties in a matter to understand responsibility issues that are likely to be relevant in a tenancy.

### *Washing machine*

The Landlord claimed because the Tenants closed the washing machine door after use, this resulted in moulding on a rubber bellow inside the machine. The replacement and installation of the bellow cost \$502.96. The Landlord did not upload the owner's manual for the appliance which supposedly discussed cleaning and maintenance. The Landlord stated the damage was due to the Tenants' neglect. The Tenant stated he does not remember what the owner's manual said about this appliance, the Landlord did not upload it into evidence and because the closet is so small, they could not close the closet without closing the washing machine door. The Tenant maintained that this is normal wear and tear.

PG#1 states that the landlord is responsible for repairs to appliances provided under the tenancy agreement unless the damage was caused by the deliberate actions or neglect of the tenant. As I cannot be certain what the proper cleaning and maintenance procedures are for the washing machine, I find the Landlord has not substantiated his claim that the Tenants were deliberately neglectful causing damage to the washing machine. I find it is the Landlord's responsibility for the repairs to this appliance. I deny granting the Landlord compensation for this repair.

### *Cleaning*

The Landlord did not upload picture evidence demonstrating an unclean rental unit at the end of the tenancy. The Landlord hired a cleaning company to do a general clean. The Tenants said they were told they were supposed to hire a professional cleaner at the end of the tenancy. The Tenants cleaned the rental unit themselves and argued that they are not required to clean the rental unit to a higher standard than what is set out in the Act.

PG#1 states the tenant must maintain "reasonable health, cleanliness and sanitary standards" throughout the rental unit. The tenant is generally responsible for paying cleaning costs where the property is left at the end of the tenancy in a condition that does not comply with that standard. I find the Landlord has not substantiated his claim on a balance of probabilities that the rental unit needed hired cleaners at the end of the tenancy. I deny granting the Landlord compensation for this general cleaning.

### *Junk removal*

The Landlord claimed that they had to hire a junk removal company to remove dumped items by the Tenants. The Tenants stated the pictures uploaded by the Landlord are not their garbage.

The Tenant testified to being contacted by the Landlord after they brought their garbage items down to the garbage compactor. The Tenant said he was told that he is not allowed to leave his garbage outside the garbage bin, and would he please deal with it. The email continued that, if he chose to leave them, he would be charged \$500.00. The Tenant said he went back downstairs, carefully read the sign about what can be put in the compactor, then he proceeded to properly dispose of his garbage items.

PG#1 states the tenant is responsible for removal of garbage and pet waste during, and at the end of the tenancy. The email exchange between the Tenants and the Building Caretaker seem to show that the Landlord was notified of garbage left outside the compactor by the Tenants. The Landlord contacted the Tenants about that situation, then the Tenant subsequently dealt with it. I find the Landlord has not substantiated their claim on a balance of probabilities about garbage left by the Tenants and I decline to grant compensation for this junk removal expense.

### *Flea inspection*

RTB Policy Guideline #31-Pet Damage Deposits provides a statement of the policy intent of the legislation and is meant to help the parties understand issues that are likely relevant to their matter. A pet damage deposit is held by the landlord as security for damage caused by a pet. A landlord can keep the pet damage deposit to pay for damage caused by a pet. (emphasis mine)

RTB Policy Guidelines place the responsibility of doing inspections on the landlord. Section 32(1) of the Act states the landlord is obligated to provide and maintain the residential property in a state of decoration and repair that complies with health, safety and housing standards required by law. A pet damage deposit is held to pay/partially pay for damage cause by a pet. I do not find a routine inspection for fleas is damage caused by a pet.

If, after the Landlord's flea inspection, it was determined that the rental unit had fleas, I would expect that the Tenants would be responsible for the inspection costs, and the

costs to remedy the infestation from their pet. Tenants must pay for damage they caused. Landlords bear the burden of other expenses as doing business.

Further, I find the Landlord's additional terms Section 6, and Section 8 of the Pet Agreement as the Landlord's attempt to contract out of the Act or the regulations. Accordingly, pursuant to Section 5(2) of the Act, I find these terms to be of no effect.

The Landlord retained \$1,345.00 from the security deposit and pet damage deposit. Pursuant to Sections 38 and 67, the Landlord must return \$1,345.00 to the Tenants. I issue a monetary award to the Tenants in this amount.

As the Landlord was unsuccessful in their claim, they must bear the cost of the application filing fee.

### Conclusion

I grant a Monetary Order to the Tenants in the amount of \$1,345.00. The Landlord must be served with this Order as soon as possible. Should the Landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court of British Columbia 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: May 04, 2023

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Residential Tenancy Branch