



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## DECISION

Dispute Codes: MNDC & FF

### Introduction:

This hearing dealt with an application by the tenant for a monetary claim due to loss and damage under the *Act*. Although the landlord was served in person with the notice of this hearing and application on October 15, 2008, he did not appear. I have proceeded with this hearing in the landlord's absence.

### Issues to be Determined:

Is the tenant entitled to compensation for damages under the *Act* due to a breach of the tenancy agreement?

### Background and Evidence:

The tenant submitted that his tenancy began on July 1, 2008 for the monthly rent of \$450.00. The tenancy agreement was verbal and on a month to month basis. The tenant did not pay a security deposit. He answered an advertisement for the rental unit made by the landlord.

The tenant states that on September 30, 2008 he paid his normal monthly rent of \$450.00. On October 3, 2008 the landlord and tenant had an argument which led to the tenant being evicted from the rental unit that night. The tenant stated that from October 3 to October 15<sup>th</sup> he attempted to reach the landlord for the return of both his possessions and his rent. The tenant states that he was unable to collect his possessions until October 15, 2008 with the assistance and presence of the local police. He did not receive his rent money back. The tenant served the landlord with notice of this hearing at that time.

The tenant stated that he shared the two bedroom unit with the landlord including the kitchen and bathroom. It was the tenant's evidence that the tenant was renting this premise and brought him in as a roommate. The tenant had no knowledge if the true landlord of the rental unit had any knowledge that he was brought in as a roommate.

The tenant is seeking damages for the sum of \$500.00 comprised of the return of his rent for \$450.00 plus the recovery of the \$50.00 filing fee paid for this application.

### Analysis:

Initially I did not believe that the tenant's claim had jurisdiction under the *Act* because he shared the kitchen and bath facilities with the landlord. This type of situation is usually exempt from the *Act* pursuant to section 4. However, section 4 of the *Act* specifies that this type of circumstance is only exempt where the tenant is sharing these facilities with the owner of the rental unit.

According to the evidence of the tenant, this is not the situation. The tenant submits that the landlord is in fact renting the rental unit. This means that the head tenant has brought in another occupant to share the rent. The head tenant remains full responsible for the terms of his contract with the landlord, but also takes on the obligations of being a landlord under the *Act*.

In the absence of any evidence from the landlord I accept the evidence of the tenant that the landlord does not own the rental unit. I find that the landlord is bound by the obligations of the *Act* and breached the tenancy agreement when he evicted this tenant without proper notice under the *Act*. Pursuant to section 7 of the *Act* the landlord is liable for any damages suffered by the tenant due to this breach.

I accept the tenant's application for compensation under the *Act*.

Conclusion:

I accept the tenant's application and grant the tenant a monetary Order for the sum of **\$500.00**. This Order may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Dated December 04, 2008.

---

Dispute Resolution Officer