

## **DECISION**

Dispute Codes      MNSD FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to keep all or part of the security deposit for damage to the rental unit and to recover the filing fee.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on February 16, 2009. Mail receipt numbers were provided in the landlord's evidence. The tenant was deemed to be served the hearing documents on February 21, 2009, the fifth day after they were mailed as per section 90(a) of the *Act*.

Both the landlord and tenant appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, in documentary form, and to cross exam each other.

All of the testimony and documentary evidence was carefully considered.

### Issues(s) to be Decided

The issues to be decided based on the testimony and the evidence are:

- Whether the landlord is entitled to a Monetary Order under section 67 of the *Act* to retain the security deposit in satisfaction of a claim for damages

### Preliminary Issue

The landlord appeared and requested an adjournment as the owner was out of the country and hadn't submitted the receipts for the repairs. The tenant testified that he was calling from outside of the Country and was not in agreement to adjourn the hearing. I found that it was not appropriate to grant an adjournment, pursuant to section 6.6 of the *Residential Tenancy Branch Rules of Procedure*, and the hearing proceeded as scheduled.

### Background and Evidence

A discussion took place between the landlord and tenant and the two parties came to an agreed settlement for a total of \$307.50 which comprised of \$150.00 for carpet repair and \$157.50 to de-flea the carpet, to be deducted from the tenant's security deposit and interest.

### Analysis

The parties have agreed to a settlement of \$307.50 which is to be deducted from the tenant's security deposit of \$550.00 plus \$43.64 of interest payable from May 26, 2000 to April 27, 2009, leaving a balance payable to the tenant of \$286.14.

I have denied the landlord's request to recover the filing fee, as based on the evidence before me and the verbal testimony provided at the hearing, the landlord was not primarily successful in their claim.

### Conclusion

I hereby grant a monetary order in favour of the tenant in the amount of \$286.14. The tenant's copy of this decision is accompanied by a Monetary Order, to be served on the landlord and is enforceable through the Provincial Court of British Columbia

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: April 27, 2009.

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Dispute Resolution Officer