



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

### Dispute Codes:

MND, MNDC, FF

### Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for a monetary Order for damage to the rental unit, a monetary Order for money owed or compensation for damage or loss, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present relevant oral evidence, to ask relevant questions, and to make submissions to me. Neither party sought to call a witness.

### Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to a monetary order as compensation for the deductible portion of an insurance claim that resulted from water damage in the residential complex and to recover the filing fee for the cost of this Application for Dispute Resolution.

### Background and Evidence

The Landlord and the Tenant agree that this tenancy began on June 01, 2008 and that it ended on May 31, 2009, during which time the Tenant paid monthly rent of \$1,400.00.

The Landlord and the Tenant agree that sometime in August of 2008 the Tenant the fire sprinkler in the rental unit was activated. The parties agree that the majority of the rental unit was flooded with water.

The Tenant stated that he accidentally activated the fire sprinkler with a clothes hanger when he was cleaning his bedroom. He stated that he was unable to stop the flow of water and that the fire department subsequently attended to deactivate the fire sprinkler.

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The Landlord stated that the flood leaked into other areas of the residential complex, which is a strata corporation, including the first floor of the residential complex and the parking garage. The Landlord stated that the damage to the residential complex and rental unit was valued at \$54,000.00, the majority of which will be covered by insurance. She stated that she has been billed for the deductible portion of that insurance claim, which is \$10,000.00.

The Tenant stated that he has previously agreed to pay for the damages but that he needs an invoice with his name on it before he can secure the funds. The Tenant did not allege negligence on the part of the Landlord or any other party.

The Landlord submitted a copy of a bill from the strata corporation, which declares that she owes \$10,000.00 for the “flood deductible”.

## Analysis

Section 32(2) of the *Residential Tenancy Act (Act)* stipulates, in part, that a tenant must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant. In these circumstances, I find that the actions of the Tenant damaged the rental unit and the common areas and that he is, therefore, is responsible for repairing the damages.

In the absence of evidence to the contrary, I find that the deductible portion of the insurance claim for these damages is \$10,000.00, for which the Tenant is responsible. In reaching this conclusion, I relied heavily on the bill that indicates the Landlord has been charged this amount for the “flood deductible”.

I find that the Landlord's application has merit, and I find that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

## Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$10,100.00, which is comprised on \$10, 000.00 in damages and \$100.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.

Based on these determinations I grant the Landlord a monetary Order for the amount \$10,100.00. In the event that the Tenant does not comply with this Order, it may be



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served on the Tenant, filed with the Province of British Columbia 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*.

Dated: July 02, 2009.

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Dispute Resolution Officer