



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNR, MND, MNSD, FF

### Introduction

This matter dealt with an application by the Landlord for unpaid utilities, for a loss of rental income, for compensation for cleaning and repair expenses, to recover the filing fee for this proceeding and to keep the Tenant's security deposit.

### Issues(s) to be Decided

1. Are there unpaid utilities and if so, how much?
2. Is the Landlord entitled to a loss of rental income?
3. Is the Landlord entitled to compensation for cleaning and repairs and if so, how much?
4. Is the Landlord entitled to keep the Tenant's security deposit?

### Background and Evidence

This tenancy started on May 15, 2006 and ended on June 15, 2009. Rent was \$2,150.00 per month payable in advance on the 15<sup>th</sup> day of each month plus 2/3 of utilities (gas and hydro) for the rental property. The Tenant paid a security deposit of \$1,075.00 at the beginning of the tenancy.

The Tenant gave the Landlord written notice on April 28, 2009 that he was ending the tenancy on June 15, 2009. The Landlord claimed, however, that the Tenant was verbally abusive and physically threatening and prevented her from showing the rental unit to prospective tenants. The Landlord also claimed that the Tenant removed 2 "For Rent" signs from the rental property. The Landlord said she was unable to re-rent the rental unit until November 1, 2009. The Tenant denied that he prevented the Landlord from showing the rental unit as alleged or that he removed any "For Rent" signs. The Tenant the Landlord showed the unit to one prospective tenant.

The Landlord said the Tenant made only 2 payments on the utility bills for the period February 2009 to June 15, 2009 and had arrears in the amount of \$427.37. The Landlord claimed that she gave copies of the bills to the Tenant approximately every 2 months and that he always paid late and never in the full amount. The Tenant claimed that he made 2 additional payments on January 14, 2009 and February 16, 2009 that the Landlord failed to apply to the alleged arrears. The Tenant said the Landlord was

Residential Tenancy Branch  
Ministry of Housing and Social Development

accustomed to giving him letters with the utility invoices which would state how much he owed and that none of the letters state that he was behind in payments.

The Landlord said the Tenant did not clean the rental unit at the end of the tenancy although she gave him an opportunity to do so. Consequently, the Landlord claimed expenses for general cleaning of \$300.00 and for carpet cleaning of \$183.73. The Tenant did not dispute these amounts.

The Landlord claimed that the Tenant damaged a window sill in the living room and removed a shower curtain rod at the end of the tenancy. The Landlord said the Tenant later dropped off a replacement shower curtain at the rental property but it did not fit the shower area. The Landlord said she purchased a new shower curtain rod for approximately \$50.00 but did not provide a copy of the receipt as evidence at the hearing. The Tenant denied being responsible for damaging the window sill and claimed that there was no shower curtain rod at the beginning of the tenancy. The Landlord did not complete a move in or a move out condition inspection report.

## Analysis

I find on a balance of probabilities that the utilities are in arrears in the amount of **\$427.37** as alleged by the Landlord. I accept the Landlord's evidence that she did not give the Tenant a demand for payment of the utilities until after she received the bi-monthly hydro bill. The Landlord provided a copy of a letter dated March 5, 2009 enclosing utility bills for the period December 30, 2008 to February 26, 2009 as evidence of this. Consequently, I find that the Tenant's payments on January 14, 2009 and February 16, 2009 would have been for bills prior to January 2009.

I find that there is insufficient evidence to support the Landlord's claim for a loss of rental income. Even if the Tenant made it difficult for the Landlord to show the rental unit to prospective tenants as she alleged (and I make no finding in that regard), the rental unit still remained un-rented for a further 4 months while it was vacant. Consequently, I cannot conclude that the Landlord lost a month of rental income due to the acts of the Tenant and as a result, that part of her claim is dismissed.

As the Tenant did not dispute the Landlord's claims for **\$183.73** for carpet cleaning and **\$300.00** for general cleaning, I find that the Landlord is entitled to recover those amounts.

Sections 24 and 36 of the Act say that a Landlord must do a move in and a move out condition inspection report with the Tenant and give a copy of the report to the Tenant. The purpose of having both parties participate in a move in condition inspection report is

Residential Tenancy Branch  
Ministry of Housing and Social Development

to provide objective evidence of the condition of the rental unit at the beginning of the tenancy so that the Parties can determine what damages were caused during the tenancy. In the absence of a condition inspection report, other evidence may be adduced but is not likely to carry the same evidentiary weight especially if it is disputed. Given that the Tenant denies damaging a window sill or taking a shower curtain rod and given the absence of any other evidence to corroborate the Landlord's claim, I find that there is insufficient evidence to conclude the Tenant is responsible for compensating the Landlord for these items and that part of her claim is also dismissed.

As the Landlord has only been partially successful in her application, I find that she is entitled to recover one-half of the filing fee for this proceeding or \$25.00. I order the Landlord to keep **\$936.10** from the Tenant's security deposit and to return the balance of it with accrued interest to the Tenant as follows:

Security deposit:	(\$1,075.00)
Accrued interest:	<u>(\$36.03)</u>
Subtotal:	(\$1,111.03)
Less: Unpaid utilities:	\$427.37
Carpet Cleaning:	\$183.73
General Cleaning:	\$300.00
Filing fee:	<u>\$25.00</u>
<b>Balance Owing:</b>	<b>\$174.93</b>

## Conclusion

A monetary order in the amount of **\$174.93** has been issued to the Tenant and a copy of it must be served on the Landlord. If the amount is not paid by the Landlord, the Order may be filed in the Provincial (Small Claims) 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 *Residential Tenancy Act*.

Dated: October 13, 2009.

---

Dispute Resolution Officer