



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### **Dispute Codes:**

MND; MNDC, MNSD; FF

### **Introduction**

This is the Landlord's application for a Monetary Order for damages to the rental unit and loss of rent, to retain the security deposit in partial satisfaction of his monetary claim; and to recover the cost of the filing fee from the Tenant.

The parties gave affirmed testimony at the Hearing.

### **Preliminary Matters**

The Landlord served the Tenant with the Notice of Hearing documents and copies of his evidence, by registered mail, on June 18, 2010. The Landlord provided the registered mail receipt and tracking number in evidence. The Landlord provided copies of his evidence to the Residential Tenancy Branch on June 18, 2010.

The Tenant testified that she served the Landlord and the Residential Tenancy Branch with copies of her evidence, by registered mail, on October 3, 2010. The Landlord acknowledged receipt of the Tenant's evidence package.

The Tenant's evidence package was not received by the Residential Tenancy Branch. The Tenant was given permission in the Hearing to re-send her evidence package to the Residential Tenancy Branch. The documents were received by the Residential Tenancy Branch on November 1, 2010, and included:

- Photocopy of original receipt and tracking number for package sent on October 3, 2010;

- Copy of the Canada Post tracking printout for the package sent on October 3, 2010;
- 3 page typewritten letter, undated, signed by the Tenant; and
- 2 page typewritten letter, dated June 23, 2010, signed by the Tenant's mother.

### **Issues to be Decided**

- Is the Landlord entitled to a Monetary Order for loss of rent for the month of June, 2010, and damages in the amount of \$1,372.16?

### **Background and Evidence**

This tenancy started on September 1, 2009. There is a written tenancy agreement between the parties, but no copy was provided in evidence. Monthly rent was \$1,050.00 due on the first day of each month. The Tenant paid a security deposit in the amount of \$500.00 and a pet damage deposit in the amount of \$500.00 at the beginning of the tenancy. **The Landlord returned the Tenant's pet damage deposit in full on June 10, 2010.**

#### **The Landlord gave the following testimony:**

The tenancy ended on June 2, 2010. In May, 2010, the Landlord gave the Tenant verbal notice that she would have to move out of the rental unit on June 30, 2010, because the Tenant had a cat and a dog and the strata corporation did not allow dogs in the rental unit. The Tenant told the Landlord on May 28 or 29 that she would be moving out early, without giving proper notice, and therefore the Landlord is seeking compensation for loss of rent for the month of June, 2010.

The Landlord asked the Tenant to do a move out inspection with him when she vacated the rental unit, but the Tenant did not want to do it. The Landlord did the inspection on his own and discovered that the Tenant had caused damage to the rental unit and did not leave it in a state of general cleanliness. The Landlord provided a copy of the Condition Inspection Report and colour photographs of the rental unit in evidence. The Landlord seeks compensation for damages caused by the Tenant, as follows:

Cost of replacing bedroom closet door	\$34.00
Landlord's labour to install and paint closet door (3 hours @ 25.00 per hour)	\$75.00
Landlord's labour to paint and re-hang master bedroom door (2 hours @ \$25.00 per hour)	\$50.00
Cost of paint for the doors	\$18.00
Landlord's labour to fill holes in walls and ceilings and paint (20 hours @ 25.00 per hour)	\$500.00
Cost of paint for walls and ceilings	\$62.66
Landlord's labour to clean bathrooms, range, oven, kitchen sink, washing machine and dryer (6 hours @ \$25.00 per hour)	\$150.00
Landlord's labour to clean carpets and wash floors (2.5 hours @ \$25.00 per hour)	\$62.50
Replace garburator gasket	\$10.00
Replace hood fan filter	\$10.00
Replace kitchen counter (there is a small piece of laminate missing from the counter edge and the Landlord cannot get a piece to replace it, so has to replace the whole counter)	\$300.00
Repair laminated floor	\$100.00
TOTAL CLAIMED	\$1,372.16

The Landlord testified that the paint and the laminate floor in the rental unit was approximately 3 years old at the end of the tenancy. The Landlord has not yet repaired the laminate floor or the kitchen counter.

The Tenant gave the following testimony:

The Landlord told the Tenant that she would have to move because the strata council would not allow her to keep her dog and that he was going to be fined. The Landlord said she had to move out by the beginning of July, but she believed she could move out any time before then. She found a place to rent for June 1, 2010, and moved out on June 1 or 2, 2010. The Tenant told the Landlord she was moving at least a week before she moved.

The Landlord did not tell her about a date for the move out inspection. The Tenant and the Landlord inspected the rental unit together at the beginning of the tenancy and the

Tenant signed something, but the Landlord did not give her a copy of the inspection report until she received the copies of his evidence.

The Tenant agreed with the Landlord's testimony with respect to the doors. She damaged one of the doors when she was moving out. She replaced the other door, but she didn't paint it. She believed she hung the door properly, but maybe not to the Landlord's standards. The Tenant told the Landlord he could take the cost of replacing the closet door from the security deposit.

When the Tenant moved into the rental unit there were holes in the walls and scrape marks. The Tenant asked the Landlord if she could hang pictures and put up hooks. The Tenant filled the holes before she moved out, but not to the Landlord's standards.

When the Tenant moved into the rental unit it was not very clean. At the end of the tenancy she swept and washed the floors and vacuumed the carpet, but did not shampoo the carpet because she had not spilled anything on the carpet. The Tenant left the stove, fridge and washing machine in the same state as they were when she moved in. The Tenant used the garburator a lot and believes that the worn gasket is regular wear and tear.

The Tenant does not know what the Landlord is referring to with respect to his claim for a missing filter. At the beginning of the tenancy, the Tenant took the stove fan apart to clean all of the grease out of it, but did not remove any of the pieces. The Tenant does not remember any damage to the kitchen counter or the laminate floor and believes the damages may have been done by workmen after she moved out of the rental unit. The Tenant stated that the pictures were taken several days after she moved out of the rental unit.

### **Analysis**

Part 4, Division 1 of the Act provides for how tenancies must end. The Landlord did not

provide the Tenant with a written Notice to End Tenancy that complied with the provisions of the Act. The Tenant relied on her understanding of the Landlord's verbal notice and vacated the rental unit early. The Tenant testified that she believed she could move out at any time before the beginning of July.

This is the Landlord's application and therefore the onus is on the Landlord to prove his claims. In failing to comply with the Act with respect to the notice to end the tenancy, the Landlord has not provided sufficient evidence that he is entitled to loss of rent for the month of June, and this portion of his claim is dismissed.

A Landlord is required to provide the Tenant with a copy of the move-in condition inspection report within 7 days of its completion, in accordance with the provisions of Section 18(1)(a) of the Residential Tenancy Regulation. The Landlord did not do comply with this requirement, however, the Tenant signed the move-in condition inspection report. The report indicates that there were some small chips on the walls and trim by the entrance. Otherwise, the report indicates that the walls were OK.

The photographs provided in evidence show many nail holes on the walls, beyond what would be considered normal wear and tear. The Landlord testified that the rental unit was last painted 3 years before the end of the tenancy. The Residential Tenancy Branch Policy Guidelines provide a useful life of 4 years for indoor paint. Therefore the paint was nearing the end of its useful life. I allow the Landlord's claim for labour and materials for painting the walls in the amount equivalent to  $\frac{1}{4}$  of his claim ( $\$562.66/4 = \$140.67$ ).

The photographs provided by the Landlord depict a poorly aligned, unpainted bedroom door. The Tenant acknowledged that she damaged the closet door. I allow the Landlord's claim in the amount of \$177.00 for materials and labour with respect to the doors.

The Act requires a Tenant to leave a rental unit reasonably clean at the end of a tenancy. If a rental unit is not in a reasonably clean state at the beginning of a tenancy, the Tenant's remedy would be to address the issue at that time with the Landlord. The Residential Tenancy Branch Policy Guidelines requires a Tenant to shampoo carpets at the end of a tenancy if the Tenant smokes or has pets in the rental unit. Based on the photographic evidence supplied by the Landlord and the oral testimony of the Tenant, the Landlord has established his claim for the cost of cleaning the rental unit and shampooing the carpets. I award the Landlord the amount of \$212.50 for this portion of his claim.

I dismiss the Landlord's claim with respect to the cost of replacing the garburetor gasket and the filter, as this is normal wear and tear.

The Landlord has not yet repaired the laminate floor or the kitchen counter, and did not provide written estimates for the cost of doing so. The Landlord did not provide sufficient evidence to support his claim that the entire kitchen counter would have to be replaced. Therefore the Landlord has not provided sufficient evidence to support this portion of his claim and it is dismissed.

The Landlord has been partially successful in his application and is entitled to recover the cost of the filing fee from the Tenant.

The Landlord has established a monetary award as follows:

Reduced amount for painting the walls and ceilings	\$140.67
Cost of materials and labour in painting and hanging the doors	\$177.00
Cost of labour in cleaning the rental unit and shampooing the carpets	\$212.50
Recovery of filing fee	\$50.00
<b>TOTAL MONETARY AWARD</b>	<b>\$680.17</b>

Pursuant to the provisions of Section 72(2)(1) of the Act, the Landlord may apply **the security deposit in the amount of \$500.00 towards partial satisfaction of his monetary award. I hereby provide the Landlord with a Monetary Order for \$180.17 (\$680.17 - \$500.00).**

### **Conclusion**

The Landlord may apply the security deposit in **partial** satisfaction of his monetary award.

I hereby provide the **Landlord** with a Monetary Order in the amount of **\$180.17 against the Tenant**, This Order must be served on the **Tenant** and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an Order of that Court.

**The Monetary Order in favour of the Tenant dated November 16, 2010, in the amount of \$319.83 is cancelled and of no force or effect.**

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: November 16, 2010.  
**CORRECTED DECEMBER 3, 2010**

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