



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### Dispute Codes:

**MND, MNR, MNSD, 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 compensation for damage to the rental unit, unpaid rent, damage or loss under the Act, to retain all or part of the security deposit and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The agent for the landlord provided affirmed testimony that on July 15, 2010, copies of the Application for Dispute Resolution and Notice of Hearing were sent to each tenant via registered mail to the forwarding address provided by the tenants on June 30, 2010. A Canada Post tracking number and receipt was provided as evidence of service to each tenant.

These documents are deemed to have been served in accordance with section 89 of the Act; however the tenants did not appear at the hearing.

### Issue(s) to be Decided

Is the landlord entitled to compensation in the sum of \$139.75 for damage to the rental unit?

Is the landlord entitled to compensation for unpaid July rent in the sum of \$850.00?

May the landlord retain the deposit paid in partial satisfaction of the monetary claim?

Is the landlord entitled to filing fee costs?

### Background and Evidence

The tenancy commenced May 1, 2009, rent was \$850.00 due on the first day of each month. A deposit in the sum of \$425.00 was paid on May 1, 2009.

The landlord is claiming:

- \$850.00 for loss of July rent revenue
- \$78.75 carpet cleaning;
- \$25.00 drape cleaning; and
- \$36.00 suite cleaning.

On June 13, 2010, the tenants gave written notice on a form, provided as evidence; that they would move out on June 30, 2010. The landlord provided copies of advertisements for apartments; they have 250 units and constantly advertise. This unit was not re-rented until October, 2010. The landlord is claiming loss of July rent as the result of the tenant's failure to provide notice as required by the Act.

A move-out condition inspection was completed, in the absence of the tenants, on June 30, 2010. A copy of one notice for a move-out inspection was provided as evidence. A second notice or time for inspection was not given to the tenants.

The condition inspection indicated that the unit required cleaning; that the drapes and rugs needed cleaning. The landlord provided an October 20, 2010 invoice for carpet cleaning in the sum of \$84.00; they are claiming \$78.75. The landlord provided receipts for suite cleaning and drapery cleaning, totalling \$61.00.

### Analysis

I find that the written notice given by the tenants ending the tenancy failed to comply with section 45 of the Act which requires notice at least 1 day prior to the day in the month on which rent is due. Notice given on June 13, when rent is due on the first of the month, was effective July 31, 2010. The landlord made efforts to mitigate a potential loss and was unable to rent the unit for July 1, 2010. Therefore, I find that the landlord is entitled to compensation for loss of July rent revenue in the sum of \$850.00.

I find, in the absence of the tenants at this hearing, from the evidence before me, that the rental unit required some cleaning at the end of the tenancy and that the landlord is entitled to compensation in the sum of \$139.75 for carpet, drapery and suite cleaning costs incurred.

Section 35 of the Act requires a landlord to offer a tenant at least 2 opportunities at the end of the tenancy to complete a move-out condition inspection. A failure to provide the opportunities for inspection at the end of the tenancy results in the application of section 36(2); which extinguishes the right of a landlord to claim against the deposit for damages when the tenant was not provided the opportunities for inspection at the end of the tenancy.

Section 72(2) of the Act provides:

*(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted*

*(a) in the case of payment from a landlord to a tenant, from any rent due to the landlord, and*

*(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.*

There is no evidence before me that the landlord has offered the tenant 2 opportunities to complete the condition inspection, therefore I find that the right of the landlord to claim against the deposit for damages is extinguished. However; pursuant to section 72(2) of the Act, I find that the landlord is entitled to retain the deposit in partial satisfaction of the claim for compensation.

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.

I find that the landlord is entitled to retain the tenant's security deposit plus interest, in the amount of \$425.00, in partial satisfaction of the monetary claim.

### Conclusion

I find that the landlord has established a monetary claim, in the amount of \$1039.75, which is comprised of \$850.00 loss of revenue, \$139.75 cleaning costs and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

The landlord will be retaining the tenant's security deposit plus interest, in the amount of \$425.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the landlord a monetary Order for the balance of \$614.75. In the event that the tenants do not comply with this Order, it may be served on the tenants, 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: November 30, 2010.

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Dispute Resolution Officer