



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

**Dispute Codes** MNDC, FF

### **Introduction**

This hearing was convened by way of conference call to deal with the tenant's application for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement and to recover the filing fee from the landlord for the cost of this application.

The tenant attended the hearing and an agent for the landlord attended, who also called a witness, being another employee of the landlord. The parties and the witness gave affirmed testimony, and the parties were given the opportunity to cross examine each other and the witness on their evidence. All information received has been reviewed and is considered in this Decision.

### **Issues(s) to be Decided**

Is the tenant entitled to a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

### **Background and Evidence**

This fixed-term tenancy began on September 1, 2008 and was to end on May 31, 2010. The tenant ended the tenancy on April 19, 2010 after giving proper notice and paying the rent up to the end of the fixed term. Rent in the amount of \$3,500.00 per month was payable in advance on the 1<sup>st</sup> day of each month, and there are no rental arrears. The parties agree that the landlord returned the security deposit to the tenant after the tenant had moved.

The tenant testified that she and the landlord had email discussions about ending the tenancy early. She gave written notice to the landlord on January 28, 2010 stating that the unit would be available to re-rent on May 1, 2010. She gave a second written notice to the landlord stating that she would in fact be moving on April 19, 2010, which she did. The tenant paid the full rent for the months of April and May, 2010, and stated that the parties agreed that the landlord would not collect double rent for the month of May, and that if the unit was re-rented during that month, she would recover the pro-rated amount.

The tenant further testified that she was in the area and noticed lights on in the unit and a cat in the window. She had asked an employee of the landlord if she could stay in the unit for a week during the month of May. She was told that a friend of one of the landlord's employees had moved in. Another employee of the landlord told her that the unit had been rented to a friend of a different employee of the landlord. The tenant emailed the landlord requesting proof of when the new tenant moved in and how much rent the landlord received, but received no response. She received an email after a second request, but that response did not answer her questions.

The tenant claims a pro-rated amount of rent for the month of May, 2010, up to \$3,500.00.

The landlord's agent testified that the two employees referred to were the same person who goes by two different names. This surprised the tenant during the hearing, who questioned that one of the employees is a maintenance person, and the landlord's witness again responded that the two employees are the same person going by two different names.

The landlord's agent also testified that the tenancy had ended, and therefore the landlord was at liberty to re-rent the unit. He agreed with the tenant's evidence that the tenant had asked to stay in the unit but was told that she would have to sign a new tenancy agreement. The landlord did not collect rent for the month of May, but allowed an employee's friends to stay there with the condition that they would allow perspective

tenants to see the suite, and they would have to vacate once the unit was rented. He stated that the friend was immigrating to Canada from India and was allowed to stay in the unit commencing May 24, and stayed in the rental unit for 4 days. The friend found a new place at the beginning of June, 2010. When asked why an immigrant from India would be staying in the rental unit with 2 cats and a dog, the landlord's agent did not know and guessed that the pets belonged to a neighbour.

The landlord provided a copy of a letter from the people staying in the unit, which states that they were there for a week and were not charged any rent.

The witness for the landlord testified that the unit was advertised on March 31, 2010 on Craig's List. The unit rented on June 28, 2010 for \$2,800.00. The witness knew about the occupants from India, but didn't know anything about the occupants having pets. She further testified that the landlord had agreed that if the place was rented, the tenant would be refunded a portion of the rent paid for the month of May, 2010.

### **Analysis**

The landlord's witness has provided some conflicting evidence. At one point he stated that the new occupants were only in the unit for 4 days, and also provided evidence from the occupants that they resided there for a week. Further, he stated that he got permission from the landlord to allow a friend to reside in the rental unit for free. I find that difficult to accept; the landlord is in the business of renting units for profit, not for free. He also stated that the friend had immigrated to Canada from India, but could not explain 2 cats and a dog in the rental unit.

The parties clearly entered into a fixed term tenancy that expired on May 31, 2010. The tenant had asked to stay in the unit for one week during the month of May and was told by the landlord's employees that she would have to sign a new tenancy agreement. I find that the previous tenancy agreement was still in effect, and the tenant had paid the rent in full for that month. Whether the landlord collected rent from the occupants or not, the tenant is entitled to a monetary order for one week of the monthly rent amount.

**Conclusion**

For the reasons set out above, I grant the tenant a monetary order in the amount of \$790.32, being the pro-rated amount of rent for 7 days. The tenant is also entitled to recovery of the \$50.00 filing fee, for a total of \$840.32. This order may be filed in the Provincial Court of British Columbia, Small Claims division 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: December 20, 2010.

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Dispute Resolution Officer