



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

**Dispute Codes** MND, MNSD, MNDC, FF

### **Introduction**

This is the Landlord's application for a Monetary Order for damages to the rental property and compensation for damage or loss under the Act, Regulation or tenancy agreement; to apply the security deposit in partial satisfaction of his monetary award, and to recover the cost of the filing fee from the Tenant.

The Landlord and the Tenant's agent gave affirmed testimony at the Hearing.

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

Is the Landlord entitled to a monetary award against the Tenant for damages and unpaid hydro?

### **Background and Evidence**

A copy of the tenancy agreement was provided in evidence. The tenancy began on September 1, 2009, and was for a fixed length of time, ending on August 31, 2010. There was no provision for the tenancy to continue on a month-to-month basis or for another fixed length of time at the end of the term.

Monthly rent was \$2,800.00 per month payable on the first day of each month. Utilities were not included in the monthly rent. A security deposit in the amount of \$1,400.00 was paid on July 30, 2009.

The Tenant shared the rental unit with other occupants, but was the sole Tenant on the tenancy agreement. On May 2, 2010, the Tenant advised the Landlord that he was moving to Ottawa. He told the Landlord that he would continue to pay the monthly rent, by post dated cheques. Shortly after the Tenant moved out of the rental unit, one of his cheques bounced. The Landlord accepted rent and utility payments from one of the occupants thereafter (the "Occupant"). The Occupant moved into the rental unit on January 1, 2010. The Landlord submitted that the "Occupant" was not a tenant and that the Landlord had not consented in writing that the Tenant could assign the tenancy agreement or sublet the rental unit. The Landlord submitted that the "Occupant" was merely a liaison between himself and the Tenant.

On August 31, 2010, the Landlord met with the Occupant to perform a move-out condition inspection report. A copy of the Condition Inspection Report was provided in

evidence. The Landlord testified that he could not reach the Tenant, and therefore did not tell him about the time and date of the inspection. On September 1, 2010, the Occupant entered into a written tenancy agreement with the Landlord for the rental unit.

The Tenant's agent testified that the Tenant had asked her to be present on his behalf at the move-out Condition Inspection. She testified that the Landlord denied her the opportunity to do so. The Landlord testified that he was not advised that the Tenant's agent was his agent until after the move-out Condition Inspection was performed.

## **Analysis**

The Act defines a tenancy agreement as "an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit."

The Landlord knew the Tenant had moved out of the rental unit in May, 2010. After the Tenant's cheque bounced, the Landlord began accepting rent directly from the Occupant after the Tenant moved out of the rental unit. In accepting rent from the Occupant, I find that the Landlord entered into a verbal month-to-month tenancy agreement with the Occupant after the Tenant moved out, and that the tenancy ended with the Tenant at that point. No move-out inspection was conducted at that time with the Tenant.

The Landlord's application against the Tenant is dismissed. The Landlord is hereby ordered to return the security deposit in the amount of \$1,400.00 to the Tenant.

## **Conclusion**

The Landlord's Application against the Tenant is dismissed without leave to re-apply.

The Tenant is hereby provided with a Monetary Order against the Landlord in the amount of \$1,400.00, representing return of the security deposit. This Order must be served on the Landlord and may be filed in the Provincial Court 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: January 14, 2011.

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