



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

### Dispute Codes:

MND, MNDC, MNR, MNSD, FF

### Introduction

This hearing was convened in response to cross applications.

The Landlord filed an Application for Dispute Resolution, in which the Landlord applied for a monetary Order for damage to the rental unit; for a monetary Order for money owed or compensation for damage or loss; for a monetary Order for unpaid rent; to keep all or part of the security deposit; and to recover the fee for filing this Application for Dispute Resolution.

The Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Tenant with the initials "L.V." via registered mail at the address noted on the Application, on November 09, 2010. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Act*, however this Tenant did not appear at the hearing. The hearing proceeded in the absence of this Tenant.

The Landlord stated submitted evidence to the Residential Tenancy Branch on December 29, 2010. The Landlord stated that he was unable to serve this evidence on the Tenants as they have moved and they did not provide the Landlord with their forwarding address. The Tenant provided the Landlord with her new address at the hearing on January 04, 2011.

As the evidence that the Landlord submitted to the Residential Tenancy Branch is highly relevant to this matter and the Landlord was prevented from serving the evidence on the Tenants due to the fact that the Tenants have moved since the Landlord served them with his Application for Dispute resolution and they did not provide the Landlord with a forwarding address, I find that it was appropriate to adjourn the hearing to provide the Landlord with the opportunity to serve the evidence on the Tenants.

The Tenants filed an Application for Dispute Resolution, in which the Tenants applied for the return of their security deposit. The Tenant stated that they did not serve the Landlord with copies of the Application for Dispute Resolution and Notice of Hearing. I find that the Tenants failed to comply with section 59(3) of the *Residential Tenancy Act (Act)* when they failed to serve the Landlord with a copy of the Application for Dispute Resolution within three days of filing it. On this basis, I dismiss the Tenants' Application

for Dispute Resolution with leave to reapply, however there will be no need for the Tenant to reapply, given that I will be making a determination on the return of the security deposit on the basis of the Landlord's Application for Dispute Resolution.

The Landlord and the Tenant with the initials "N.V." attended the hearing. The Tenant did not attend the hearing until eleven minutes after the commencement of the hearing, however the issues discussed prior to her attendance were reviewed with her. The parties were provided with the opportunity to submit documentary evidence prior to the start of the proceedings; to present relevant oral evidence **at both hearings**, to ask relevant questions **at both hearings**, and to make relevant submissions to me **at both hearings**.

## Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to compensation for unpaid rent, to compensation for cleaning the rental unit, and to compensation for damages to the rental unit; whether the Landlord is entitled to retain all or part of the security deposit paid by the Tenants or whether it should be returned to the Tenants; and whether the Landlord is entitled to recover the filing fee for the cost of this Application for Dispute Resolution.

## Background and Evidence

At the hearing on January 04, 2011, the Landlord and the Tenant agreed that this tenancy began on July 15, 2009; that the Tenants agreed to pay monthly rent of \$1,600.00 on the first day of each month; and that the Tenants paid a security deposit of \$750.00.

At the hearing on January 04, 2011, the Landlord and the Tenant agreed that after the Tenants had not paid rent when it was due on September 02, 2010, the parties agreed that the Tenants would only have to pay \$800.00 in rent for September provided they vacated the rental unit on September 30, 2010 and they left the rental unit in reasonably clean condition.

At the hearing on January 04, 2011 the Tenant stated that they vacated the rental unit on October 01, 2010 and the Landlord stated that they vacated on October 03, 2010.

At the hearing on January 04, 2011 the Tenant stated that they never provided the Landlord with a forwarding address in writing, although she contends it was verbally provided to the Landlord on October 01, 2010.

At the hearing on January 04, 2011 the Landlord stated that he never received the Tenant's forwarding address and that they ascertained where the Tenants had moved by following them to their new address when they were moving.

## Analysis

On the basis of the undisputed evidence provided at the hearing, I find that the Landlord and the Tenants had a tenancy agreement that began on July 15, 2009, for which the Tenants were required to pay monthly rent of \$1,600.00 on the first day of each month.

I find that the Landlord and the Tenants verbally agreed to reduce the monthly rent to \$800.00 for the month of September of 2010, providing the Tenants vacated the rental unit by the end of September and left the rental unit in clean condition. The undisputed evidence is that the Tenants had not vacated the rental unit by the end of September and that the rental unit was not left in clean condition. I therefore find that the terms of the verbal agreement to reduce the rent to \$800.00 had not been fulfilled by the Tenants and the rent remained at \$1,600.00 for the month.

**I find that the Landlord's application has merit, and I find that the Landlord is entitled to recover the filing fee from the Tenants for the cost of this Application for Dispute Resolution.**

## Conclusion

**I find that the Landlord has established a monetary claim, in the amount of \$387.00, which is comprised on \$337.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.**

**Based on these determinations I grant the Landlord a monetary Order for the amount \$102.88. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, 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: January 04, 2011.

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Residential Tenancy Branch