



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNSD, MNDC, FF

### Introduction

This matter dealt with an application by the Landlord for compensation for unpaid rent, for damage or loss under the Act, regulation or tenancy agreement, to recover the filing fee for this proceeding and to retain the Tenants' security deposit as partial payment of these claims.

The Landlord said he served the Tenants with the Application and Notice of Hearing (the "hearing package") by registered mail on March 7, 2011. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlords' hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenants' absence.

### Issues(s) to be Decided

1. Is there unpaid rent and if so how much?
2. Is the Landlord entitled to compensation for unpaid rent and if so how much?
3. Is there a loss or damage to the unit or Landlord and if so how much?
4. Is the Landlord entitled to compensation for the loss or damage and if so how much?
5. Is the Landlord entitled to retain the security deposit?

### Background and Evidence

This tenancy started on January 1, 2010 as a month to month tenancy. Rent was \$1,400.00, but was reduced to \$1,300.00 to accommodate the Tenants. The rent was payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$700.00 on December 19, 2009. This tenancy ended on March 1, 2011.

The Landlord said the Tenants did not pay the February, 2011 rent of \$1,300.00 and as a result the Landlord serviced the Tenants a 10 Day Notice to End Tenancy for unpaid rent. The Landlord said the Tenants did not pay the rent and moved out of the rental unit on March 1<sup>st</sup>, 2011. The Landlord continued to say the rental unit was left in an unclean state and there were damages to the unit. The Landlord said they are claiming compensation to cleaning the unit of \$100.00, for damage to furnishings of \$170.00, for carpet cleaning of \$193.76, to replace the carpet in one room of \$338.52 and to recover

the cost of a lost parking pass of \$50.00. The Landlord said the total claim for damages is \$852.28 plus the filing fee for this proceeding of \$50.00. The Landlord said they completed a signed move in and move out inspection report which they faxed in for the conference call.

In addition the Landlord said they are requesting compensation for unpaid rent for February, 2011 of \$1,300.00 and lost rental income of \$1,300.00 for March, 2011 because they could not rent the unit until April 1, 2011 due to the unclean condition and damage in the unit. The Landlord is also requesting a \$20.00 per day charge for 28 days as a penalty for not paying the rent. The Landlord said this is a clause that is in the tenancy agreement.

### Analysis

Section 23 and 35 of the Act say that a landlord and tenant must do condition inspections to establish the condition of the rental unit at the start and the end of the tenancy. If this is not done and there is no other acceptable evidence of the condition of the rental unit at the start and the end of a tenancy then the applicant cannot establish the amount of damage or if any damage was done to the rental unit. The Landlord has submitted condition inspection reports which establishes the unclean condition of the unit and damage to the furniture, but the reports do not make refers to any damage to the carpets that were replaced. Consequently I find the landlord has established grounds for their claim of cleaning of \$100.00, damage to the furniture of \$170.00 and carpet cleaning, but I dismiss the Landlords' claim for the replacement of the carpet of \$338.52 in one room as the report makes no mention of damage to the carpet.

I also find that the Landlord is entitled to recover unpaid rent for February, 2011, in the amount of \$1,300.00. I further find that the Landlord is entitled to recover a loss of rental income to March 15, 2011, in the amount of \$650.00 representing ½ of a the March, 2011 rent. The Landlord has an obligation to mitigate their damages under s. 7(2) of the Act by re-renting the rental unit as soon as possible. I further find that the Landlord is entitled to recover the late charge of \$20.00 for one day pursuant to regulation number 7 (d) of the Residential Tenancy Regulations.

As the Landlords have been successful in this matter, they are also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) and s. 72 of the Act to keep the Tenant's security deposit plus accrued interest in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as following:

	Rent arrears:	\$1,300.00	
	Loss of Rental Income:	\$ 650.00	
	Cleaning and		
	Damage to the unit	\$ 513.76	
	Late payment fees	\$ 20.00	
	Recover filing fee	\$ 50.00	
	Subtotal:		\$2,533.76
Less:	Security Deposit	\$ 700.00	
	Subtotal:		\$ 700.00
	Balance Owing		\$1,833.76

Conclusion

A Monetary Order in the amount of \$1,833.76 has been issued to the Landlord. A copy of the Order must be served on the Tenants: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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*.

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 Residential Tenancy Branch