



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

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

### **Introduction**

This hearing was convened by way of conference call to deal with the landlord's application for a monetary order for damage to the unit, site or property; for a monetary order for unpaid rent or utilities; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of this application.

An agent for the landlord company attended the conference call hearing, gave affirmed testimony and provided an evidence package in advance of the hearing. However, despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents, along with the evidence package, by registered mail on January 31, 2011, the tenant did not attend. All information and testimony provided has been reviewed and is considered in this Decision.

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

Is the landlord entitled to a monetary order for damage to the unit, site or property?

Is the landlord entitled to a monetary order for unpaid rent or utilities?

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

Is the landlord entitled to retain all or part of the pet damage deposit or security deposit in full or partial satisfaction of the claim?

### **Background and Evidence**

The landlord's agent testified that the tenant's whereabouts are unknown, and the landlord served the tenant with the Landlord's Application for Dispute Resolution and notice of hearing documents by sending them to the address provided by a guarantor when the tenant originally completed the application for tenancy. A copy of the Letter of Guarantee was provided in advance of the hearing.

This fixed-term tenancy began on January 1, 2011 and was to expire on December 31, 2011, however the landlord's agent testified that the landlord allowed the tenant to move in on December 23, 2010 so that she could be moved in for Christmas, and the tenancy agreement did not commence until January 1, 2011. The tenant was not charged rent for the time spent in the unit during December, 2010.

Rent in the amount of \$2,000.00 per month was payable in advance on the 1<sup>st</sup> day of each month. The tenant paid to the landlord \$1,000.00 for a security deposit on December 23, 2010, however that cheque was returned by the financial institution for non-sufficient funds on December 31, 2010.

The landlord's agent further testified that the tenant did not pay rent for the month of January, 2011, and the landlord applied for dispute resolution and obtained an Order of Possession for unpaid rent as well as a monetary order for unpaid rent for the month of January, 2011 in the amount of \$2,000.00. The tenant vacated the rental unit and had assistance in moving without the landlord's knowledge.

The tenancy agreement provides for liquidated damages in the amount of \$400.00 if the tenant moved out of the rental unit prior to the end of the fixed term. The tenancy agreement also provides for a \$25.00 fee for N.S.F. cheques. The landlord is claiming both of those amounts.

The landlord's agent also testified that the rental unit was re-rented on February 15, 2011 and the landlord is claiming a pro-rated amount for rent for the month of February in the sum of \$999.88.

A move-in condition inspection was completed on December 23, 2010, and a copy of that report was provided in advance of the hearing. The landlord's witness testified that she is employed by the landlord company and cleaned the rental unit after the tenant had vacated. She was also present during the move-out condition inspection, which was completed in the absence of the tenant. She stated that the fridge, counters, cupboards, bathroom, floors and windows all required cleaning after the tenant left. The tenant was also in a wheel chair, which left marks on the cupboards, door frames and walls throughout the rental unit which were not cleaned by the tenant prior to vacating the rental unit. The landlord is claiming \$100.00 for cleaning.

### **Analysis**

I have examined the documentation provided by the landlord, and in particular the Letter of Guarantee, and find that the tenant has been properly served with the Landlord's

Application for Dispute Resolution and notice of hearing documents on January 31, 2011.

I have also examined the tenancy agreement and the move-in/out condition inspection report, and I find that the landlord has complied with the *Act* by completing the reports. I further find that the landlord's right to complete the move-out condition inspection report without the tenant present was justified in the circumstances, because the tenant left the unit without notifying the landlord, and thereby abandoned the rental unit.

I further find that the landlord's claim for liquidated damages is justified. The tenant was in the rental unit for about 3 weeks after signing a fixed term tenancy agreement for a year. Also, the landlord's claim for an N.S.F. fee is justified, having been agreed to in the tenancy agreement at the outset of the tenancy.

With respect to unpaid rent, I find that the landlord's claim for a pro-rated amount of rent is justified in the circumstances. The landlord charged a new tenant, who moved into the rental unit on or about February 15, 2011, a pro-rated amount of rent, and the landlord has suffered a partial month of unpaid rental income due to the tenant's failure to comply with the tenancy agreement.

I further find that the landlord has established a claim for damages in the amount of \$100.00 for cleaning the rental unit.

The landlord is also entitled to recovery of the \$50.00 filing fee for the cost of this application.

In summary, I find that the landlord has established a claim for:

- \$999.88 for unpaid rent;
- \$400.00 for liquidated damages;
- \$25.00 for an N.S.F. fee for the security deposit;
- \$100.00 for cleaning charges;
- \$50.00 for the cost of filing this application;

for a total of \$1,574.88

### **Conclusion**

For the reasons set out above, I hereby grant a monetary order in favour of the landlord pursuant to Section 67 of the *Residential Tenancy Act* for \$1,574.88. 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: May 06, 2011.

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Residential Tenancy Branch