



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC and FF

### Introduction

This application was brought by the tenant seeking a monetary award for costs arising from a claim that the landlord evicted him without proper notice. The landlord was represented and attended the hearing in the company of her daughter-in-law who has direct knowledge of the tenancy and who relayed the landlords submissions and responses.

### Issue(s) to be Decided

This matter requires a decision on whether the tenant is entitled to the claims submitted taking into account that party making claims in damages bears the burden of proof.

### Background, Evidence and Analysis

This tenancy began on or about November 1, 2007. Rent was \$500 per month and there was no security deposit.

During the hearing, the tenant stated that he was asked to leave the rental unit within 15 days on June 26, 2011. The landlord stated that the tenant was asked to leave, but it was not until July 12, 2011 and he was asked to be gone by the end of the month.

The landlord concurred that there was no Notice to End Tenancy but the tenant was asked to leave as he had become increasingly verbally abusive. The landlord stated that the tenant had been served with notices to end tenancy in November of 2010 and in January of 2011 but she had not enforced the notices out of kindness and recognition of the difficulty of the tenant finding new accommodation in the very tight rental market.

The current conflict had apparently arisen over of a water intrusion into the rental unit which the tenant stated was substantial and which the landlord stated amounted to a measured 3 cm of water, confined to the laundry area.

The landlord stated that she had not been aware of the water intrusion until the tenant returned from a trip on June 29, 2011, because the tenant had changed the lock to the rental unit without consent and had not provided her with a key. The tenant stated that he had provided a key and concurred that he had taken the lock with him when he had moved.

The landlord stated that the tenant had not paid the rent for July 2011 and the tenant insisted he had paid but submitted no proof, stating he had paid in cash and received no receipt.

The tenant claims, and I find as follows:

**Motel room for the last two weeks of July 2011 - \$450.** While there is no receipt for this claim, I will allow it on the grounds that the parties agreed that the tenant was evicted without proper notice. Even though he left before the stipulated date, and I prefer the evidence of the landlord that she asked him to leave on July 10 or 12, 2011, proper notice could not have taken effect until August 31, 2011. Therefore, I find the tenant is entitled to this amount in compensation.

**Return of rent for July 2011 - \$500.** In the face of directly opposed verbal evidence on this question with no documentary evidence of the claimed payment, I find the tenant has failed to meet the burden of proof on the question and I find the landlord to be the more credible. This claim is dismissed.

**Carpet cleaning after water in basement - \$190.** The tenant has submitted a receipt on this claim and the landlord concurs that he is entitled to reimbursement of the cost. The claim is allowed.

**Moving and storage - \$550.** The tenant submitted a receipt for moving and storage of his belongs but the receipt does not separate the two charges. I concur with the landlord that the tenancy would have ended shortly in any event and the tenant would have had moving costs. I will allow \$125 on this claim for the storage component.

**Refuse removal - \$160.** The tenant has submitted a receipt on this claim which includes taking a mattress, freezer and other refuse to the dump. I am not persuaded that the small amount of water in a separate area of the rental unit compromised the mattress and find that the landlord is not responsible if the tenant chose to dispose of a freezer. This claim is dismissed.

**Charge to disconnect internet & cable - \$208.20.** The tenant submitted a receipt for this claim, but as noted by the landlord, the receipt is dated June 3, 2011, several weeks before the tenant moved and clearly unrelated to the move. The claim is dismissed.

**Mail box rental - \$73.** There is no receipt in support of this claim and it is dismissed.

**Filing fees - \$100.** The tenant claim two filing fees, one for the present hearing and the other for a previous hearing on the same matter which the tenant withdrew in the midst of the hearing and which application was dismissed with leave to reapply. I cannot award a filing fee for a previous hearing, and I find that by leaving early and by changing the lock without consent, the tenant contributed to this dispute. Therefore, I find that the filing fee should be split equally between the parties and allow \$25 on the claim.

Thus, I find that the tenant is entitled to a monetary award calculated as follows:

Motel room	\$450.00
Storage	125.00
One-half of filing fee	25.00
<b>TOTAL</b>	<b>\$790.00</b>

### Conclusion

The tenant's copy of this decision is accompanied by a Monetary Order, for \$790.00, enforceable through the Provincial Court of British Columbia, for service on the tenant.

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: November 24, 2011.

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Residential Tenancy Branch