



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW DECISION

Dispute Codes      MNR, MND and MNDC

### Introduction

This review hearing was granted on the tenant's application by Decision of October 8, 2011 on the grounds that the tenant had not been able to attend the original hearing of August 30, 2011 because he had not been served with notice of the hearing.

### Issue(s) to be Decided

This matter now requires a decision on whether the landlord was entitled to the Monetary Order for \$7,405.16 granted in the original hearing brought on her application and held on August 30, 2011.

### Background, Evidence and Analysis

This tenancy ran from November 1, 2009 to April 1, 2010. Rent was \$1,500 per month and the landlord held a security deposit of \$1,500.

This matter has been before the branch on four occasions:

On September 15, 2010, a hearing was held on the tenant's application with the result that the tenant was awarded \$3,000 for return of his security deposit in double under section 38(6) of the *Act*, plus \$450 for the loss of use of a refrigerator and recovery of his \$50 filing fee. The landlord did not attend.

On August 30, 2011, almost a year later, a hearing was held on the landlord's application for damages and recovery of the filing fee with the result that the landlord was awarded \$7,405.16. The tenant did not attend.

As noted, the tenant's application for a review hearing was granted by decision of October 8, 2011. That matter was set for hearing on November 14, 2011 but was adjourned to the present hearing when the landlord did not appear and there was question as to service.

The present reconvening of the review hearing re-examined the findings of the hearing of August 30, 2011 with the tenant present to give evidence and challenge the claims submitted by the landlord as follows:

**Replacement of doors - \$453.60 materials + \$375 labour + \$86.52 = \$915.12.** In the absence of the tenant at the original hearing and the uncontested evidence of the landlord, the Dispute Resolution Officer did not have need to refer to move-in and move-out condition inspection reports. However, as the claims were vigorously contested in the present hearing, I took into account that there were no such reports done as required under the *Act* to provide a basis for comparison. The landlord provided receipts for these claims but photographs of only two damaged doors. The tenant conceded that one door had been damaged when a guest fell through it. I find that the tenant is responsible for the replacement of two doors and reduce the original award to half; **\$457.56.**

**Carpet replacement with laminate - \$2,590.** The tenant contested the landlord's claims that the carpeting had been stained and damaged to the point of needing replacement and laminate flooring was installed. The tenant stated that the floors were in similar condition at the end of the tenancy as they were at the beginning, although the tenant conceded that he had smoked in the rental building. Taking into account some uncertainty as to the age of the carpets, the question of whether the laminate flooring constituted betterment, the opposing evidence of the parties and poor resolution photographs, I am again at a loss without the condition inspection reports, but find the tenant responsible for one-third of this claim; **\$862.47.**

**Radiator repair - \$3,800.** The landlord claimed and was awarded this amount in the original hearing on the basis of uncontested evidence and a written estimate for repair/replacement of part of the hot water heating system. At the present hearing - in the early stages of the second winter after the tenancy ended – the landlord stated that the repairs have not been done. I therefore question whether the damage was sufficient to require repair of the magnitude claimed and reduce the award to **\$200** to cover cosmetic damage which is obvious in the landlord's photographic evidence.

**Filing fee - \$100.** The finding that the tenant should reimburse the landlord's filing fee is continued as is.

Thus, I now find that the tenant owes to the landlord an amount calculated as follows:

Replacement of doors	\$ 457.56
Radiator repair	200.00
Filing fee	100.00
<b>TOTAL</b>	<b>\$1,620.03</b>

Therefore, I find that the Monetary Order issued to the landlord dated August 30, 2011 for \$7,405.16 is set aside.

In its place, the landlord's copy of this decision is accompanied by a Monetary Order for \$1,620.03.

During the hearing, the parties acknowledge that the landlord has already paid \$2,500 of the \$3,500 awarded to the tenant during the hearing of September 15, 2010. The parties then agreed that the tenant would pay \$620.03 to the landlord's solicitor on the day of or following the hearing and they would set off the remaining \$1,000 balance of their Monetary Orders against one another.

### Conclusion

The landlord's copy of this decision is accompanied by a Monetary Order for \$1,620.03, 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: December 01, 2011.

---

Residential Tenancy Branch