



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, O, FF, FF  
                             MNSD, FF

### Introduction

This hearing dealt with cross applications by the landlord and tenants. The application by the landlord is money owed or compensation for damage or loss, other and recovery of the filing fee. The application by the tenant is for return of the security deposit and recovery of the filing fee. Both parties participated in the conference call hearing.

### Issue(s) to be Decided

Is either party entitled to any of the above under the Act.

### Background and Evidence

This tenancy began May 1, 2010 with monthly rent of \$718.00 and the tenant paid a security deposit of \$350.00 and a pet damage deposit of \$300.00.

#### The tenant's claim

The tenant testified that she gave the landlord notice at the end of July 2010 to vacate September 30, 2010. The tenant stated on the last day, September 30, 2011, that she gave the landlord her forwarding address in writing for return of the security deposit. The tenant stated that to date the landlord has not returned the security deposit.

The tenant in this application is seeking \$1300.00 compensation in return of double the security deposits.

#### The landlord's claim

The landlord testified that the tenant changed both the top and bottom locks in September 2011 and did not provide the landlord with keys. The landlord stated that without keys to the rental unit that she had no access to show the suite. The landlord also stated that the tenant repeatedly denied the landlord access to show the rental unit and secure new tenants for October 1, 2011 which resulted in a loss of \$700.00 rental income.

The tenant stated that she had only changed the bottom lock and that the landlord had a key. The tenant also stated that she was willing to allow the landlord access to show the suite but that the landlord had not provided proper notice. The tenant also commented on an incident where the rental unit had been broken into and stated that was the reason why she was insistent on being at the rental unit when it was shown to prospective renters. The landlord reiterated again that the tenant changed both locks and the tenant immediately refuted the landlord's testimony. The landlord in this application is seeking \$700.00 compensation for loss of rental income for October 2011.

The landlord stated that the tenant painted the living area bright turquoise and the bedroom bright pink and did not paint the areas back to the original neutral colour as required and as she said she would. The tenant directly contradicted the landlord's testimony and stated that the rental unit was painted those colours when she moved in and that she had not painted the rental unit. The landlord in this application is seeking \$269.00 compensation for re-painting the rental unit.

The landlord stated that the tenant accessed a storage area of the landlord's without permission from the landlord and removed a dog bed to use for one of her own dogs. The tenant directly contradicted the landlord's testimony and stated that she had never gone into in to the landlord's storage area and taken a dog bed. The landlord in this application is seeking \$40.00 compensation for replacement of the dog bed.

The landlord stated that the inside of the door was badly scratched by the tenant's dogs and had to be repainted. The tenant directly contradicted the landlord's testimony and stated that her dogs had not damaged or scratched the door. The landlord in this application is seeking \$100.00 compensation for re-painting the door.

The landlord stated that the tenant's cat damaged one of the blinds in the rental unit. The tenant acknowledged that the blind had been damaged by her cat but challenged the cost the landlord was seeking. The landlord in this application is seeking \$79.00 compensation for replacement of the damaged blind.

Both parties continually contradicted each other's testimony throughout the hearing and accused each other of being untruthful.

## Analysis

### The tenant's claim

Based on the documentary evidence and testimony of the parties, I find on a balance of probabilities that the tenant has met the burden of proving that they have grounds for entitlement to a monetary order for return of double the security deposit.

Section 38(1) of the *Residential Tenancy Act* provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of

the tenancy and the date the landlord received the tenant's forwarding address in writing; the landlord in this case had done neither.

Section 38(6) of the *Residential Tenancy Act* provides in part that if a landlord does not comply with his statutory obligation to return the security deposit within 15 days, the landlord must pay the tenant double the amount of the deposit. Accordingly I find that the tenant is entitled to a monetary order for \$1300.00.

#### The landlord's claim

Based on the documentary evidence and testimony of the parties, I find on a balance of probabilities that the landlord has met the burden of proving that they have grounds for entitlement to a monetary order for money owed or compensation for damage or loss.

I accept the landlord's testimony that the landlord did not have adequate access to the rental unit to be able show the suite to prospective tenants and have the unit re-rented for October 2011. Therefore the landlord is entitled to \$700.00 compensation for this loss of rental income.

In regards to the landlord's claim that the tenant painted the rental unit bright colours and did not repaint the unit or the scratched door upon vacating and in the absence of any receipts for these expenses, I find that the landlord is entitled to the limited amount of \$150.00.

In regards to the dog bed that the landlord stated that the tenant removed and in the absence of receipts or replacement of the dog bed, I find that the landlord is not entitled to any portion of this \$40.00 claim and it is dismissed without leave to reapply.

In regards to the damaged blind that the landlord stated the tenant's cat damaged and as the tenant acknowledged this damage, I find that the landlord is entitled to \$79.00 compensation for replacement of the blind

The tenant is entitled to a monetary order for \$1300.00 and the landlord is entitled to a monetary order for \$929.00. These two amounts off set each other and result in a balance of \$371.00 due to the tenant for which the tenant will be provided a monetary order.

As both applications had merit, I decline to make an order regarding the filing fees and each party will assume responsibility for the costs associated with their application.

#### Conclusion

I find that the tenant has established a monetary claim for **\$1300.00** in return of the security deposit.

I find that the landlord has established a monetary claim for **\$929.00** for money owed or compensation for damage or loss.

I grant the tenant a monetary order under section 67 of the *Act* for the amount of **\$371.00**.

If the amount is not paid by the landlord, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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 19, 2012

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Residential Tenancy Branch