



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, FF

### Introduction

This hearing dealt with an application by the landlord to keep all or part of the security deposit and recovery of the filing fee. Both parties participated in the conference call hearing.

### Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

### Background and Evidence

This fixed term tenancy began January 1, 2011 with monthly rent of \$920.00 and the tenant paid a security deposit of \$460.00.

The landlord testified that on October 18, 2011 the tenant gave the landlord notice to end the fixed term tenancy effective November 30, 2011. The landlord stated that the tenancy agreement holds a 'liquidated damages' clause which states if a tenant ends the fixed term tenancy early the landlord is entitled to liquidated damages in the amount of \$460.00.

The landlord stated that the tenant had also not cleaned the carpet in the rental unit prior to vacating and the landlord has incurred a cost of \$95.20 for carpet cleaning.

The landlord in this application is seeking a monetary order for \$555.20 in liquidated damages and cleaning costs.

The tenant testified that all she wanted was her security deposit back and that she had never felt safe in the rental unit due to the constant cigarette smoke in the building. The tenant was advised that if she wished to seek compensation for issues related to this tenancy that she was at liberty to file an application through this office.

### Analysis

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 liquidated damages and cleaning costs.

The tenancy agreement is very clear in regards to the liquidated damages that a tenant must pay when ending a fixed term tenancy early. The landlord has also provided a receipt for the carpet cleaning in the tenant's rental unit.

Accordingly I find that the landlord is entitled to a monetary order for \$555.20.

As the landlord has been successful in their application the landlord is entitled to recovery of the \$50.00 filing fee.

### Conclusion

I find that the landlord has established a monetary claim for \$555.20 in liquidated damages and cleaning costs. The landlord is also entitled to recovery of the \$50.00 filing fee. I order the landlord pursuant to s. 38(4) of the Act to keep the tenant's \$460.00 security deposit in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of **\$145.20**.

If the amount is not paid by the tenant(s), 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: February 23, 2012

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Residential Tenancy Branch