



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNSD, MNDC, FF

### Introduction

This hearing was convened in response to an application filed by the landlord seeking:

1. A monetary order for damages and/or compensation for loss;
2. An Order allowing the landlord to retain the security deposit; and
3. Recovery of the filing fee paid for this application.

Both parties appeared at the hearing and gave evidence under oath.

### Issue(s) to be Decided

Has the Inadord met the burden of proving his claim?

### Background and Evidence

On November 30, 2011 the tenant gave written notice to the landlord that she intended to vacate the rental unit as at February 1, 2012. The landlord testified that the tenant took photographs of the rental unit at move in however the landlord confirmed he did not prepare Condition Inspection Reports at move in or move out. The landlord says that he provided the tenant with an opportunity to do a walk through with him at move out but she was not agreeable to the time. The landlord says the walk through had to be done during daylight hours in order to allow him to properly inspect the unit. The landlord says that after the tenant vacated he did inspect the unit and discovered that it was not cleaned, the fridge drawer was broken and the bedroom floor damaged. The landlord claims the following:

Cleaning	\$180.00
Bedroom Floor	1,500.00
Total	\$1,740.00

The landlord is claiming the security deposit of \$425.00 paid August 14, 2011 in partial satisfaction of his claim. The landlord did not submit invoice evidence of the costs claimed. The landlord says he has not had the work completed yet and he has only submitted estimates of the costs of the repairs/cleaning although no such estimates were presented in evidence either. The landlord says he is not sure how this process works. The landlord says he has the originals of the photographs he took which show the condition of the rental unit at move-out and which could be compared with the tenant's photographs to show the difference, however the only photographs submitted in evidence were not originals and they were indecipherable.

The tenant testified that she received some photographs from the landlord on February 2, 2012 and then she was served with the landlord's Application for Dispute Resolution on February 15, 2012. The tenant testified that she has not received any further evidence from the landlord with respect to his claim. The tenant says the only damage she caused was that she hung some curtains in the rental unit with the landlord's permission and in order to hang the curtains she created holes in the walls. The tenant says that she repaired these holes at move out. The tenant says the rental unit was properly cleaned when she vacated and that she caused no other damage.

### Analysis

While the landlord says the tenant did not leave the rental unit clean and that she caused damage, the tenant states that she did clean the rental unit and that she did repair the only damage she caused. A landlord is required to prepare Condition Inspection Reports at move-in and move-out but none were prepared. These reports serve to prove the condition of the rental unit at move-in and at move-out. While the landlord could provide other evidence to show the condition of the rental unit at move-in and move-out he has only supplied some indecipherable photographs. I find that none of the landlord's evidence serves to prove that the tenant did not clean and that she left damages, even if he had supplied sufficient evidence in this regard, he has supplied insufficient evidence of monetary loss.

The onus or burden of proof is on the party making the claim. When one party provides testimony/evidence of the events in one way and the other party provides an equally probable but different testimony/evidence of the events, then the party making the claim has not met the burden on a balance of probabilities and the claim fails. I find that the landlord has failed in his burden and his application is therefore dismissed.

As the landlord's claim has been dismissed the landlord must now return the \$425.00 security deposit paid by the tenant. This deposit has accrued no interest. The tenant has been provided with an Order in this regard enforceable as any other Order of the Provincial Court of BC.

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: April 18, 2012.

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Residential Tenancy Branch