



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **REVIEW HEARING DECISION**

Dispute Codes      MND, MNR, MNSD, FF

### Introduction

This review hearing was conducted as result of the Tenant's Application for Review, of a decision and order obtained by the Landlord on March 28, 2012. The Tenant was successful on the ground that she was unable to attend the hearing due to circumstances beyond her control. In the Review decision a new hearing of the dispute was granted. I conducted the new hearing on April 24, 2012.

The Landlord's Application requested a monetary order for unpaid rents, for damage (cleaning) to the rental unit, to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

An Agent for the Landlord appeared, gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

An Advocate for the Tenant appeared and explained the Tenant has little understanding of English. The Advocate for the Tenant was affirmed and gave testimony and was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions on behalf of the Tenant.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

Is the Landlord entitled to a monetary order?

### Background and Evidence

The parties signed a written tenancy agreement on August 1, 2011, for a month to month tenancy starting July 15, 2011. There is a note on the tenancy agreement that the Tenant was allowed to move into the rental unit early, on July 15, 2011.

The monthly rent was \$785.00, payable on the first day of the month. The Tenant paid a security deposit of \$392.50 on July 12, 2011.

The Agent for the Landlord testified that the Tenant gave the Landlord a notice to end the tenancy to be effective on December 31, 2011. According to the Agent, the Tenant was unable to leave at the end of December and asked to remain in the rental unit until the middle of January 2012. The Landlord agreed to this.

According to the Agent, at the end of the tenancy the Tenant told the Landlord they could keep her security deposit for the rent for half of January 2012. The Agent for the Landlord apparently informed the Tenant that she could not do this and had to pay the rent.

The Landlord also claims for a short payment of rent of \$25.00 for December of 2011.

The Landlord further claims that the Tenant did not clean the carpets when she vacated the rental unit.

The Landlord claims \$392.50 for ½ of a months' rent, \$25.00 for outstanding rent, \$61.60 for carpet cleaning and \$50.00 to recover the filing fee for the Application, for a total of \$529.10.

The Advocate for the Tenant explained that the Tenant initially wanted to move into a different rental unit owned by the Landlord. However, this did not occur.

Following this, the Tenant gave the Landlord her notice to end the tenancy on December 15, 2011, to be effective on January 15, 2012. The Advocate explained that the Tenant thought the Landlord would cover the January rent with the security deposit, although the Landlord refused to do this.

The Advocate for the Tenant explained that the Tenant did not understand she had to have the carpets cleaned before she vacated the rental unit.

### Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find that the Tenant breached the Act by failing to give proper notice to end the tenancy, by failing to pay all rent due, and by failing to clean the carpets at the end of the tenancy.

I note I do not find the Tenant breached the Act intentionally, as it appears she has limited understanding of English. However, even with limited understanding of English, the Tenant still must follow the law for residential tenancies in British Columbia.

Under the Act the Tenant was required to give the Landlord one month notice to end the tenancy. Although the tenancy began on the 15<sup>th</sup> day of the month, the rent was payable on the first day of the month. Therefore, under section 45 the Act, the Tenant could not end the tenancy on the 15<sup>th</sup> day of the month.

The Tenant should have given her notice to end the tenancy no later than November 30, 2011, the day before rent was due for December, in order to end the tenancy on December 31, 2011.

In this situation, the Landlord was entitled to rent for the entire month of January 2011, even though the Tenant left in the middle of the month. However, the Landlord is only claiming for ½ a months' rent. I grant the Landlord \$392.50 for this loss. Based on the evidence of the Landlord, I also find the Tenant owes the Landlord \$25.00 in outstanding rent.

Under section 37 of the Act the Tenant was required to leave the rental unit reasonably clean, and undamaged, except for reasonable wear and tear. Generally speaking, at the end of a tenancy the Tenant is responsible to have the carpets steam or professionally cleaned. Here the Tenant did not do this and therefore, I grant the Landlord's request for the cost of cleaning the carpets in the amount of \$61.60.

I find that the Landlord has established a total monetary claim of \$529.10, comprised of \$392.50 and \$25.00 in rents, \$61.60 for carpet cleaning and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the deposit and interest of \$392.50 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$136.60**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

This decision is final and binding on the parties, except as otherwise provided under the act, and 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 25, 2012.

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Residential Tenancy Branch