



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, FF

### Introduction

This Hearing was convened in response to an application by the Tenant pursuant to the Residential Tenancy Act (the “Act”) for Orders as follows:

1. A Monetary Order for compensation – Section 67; and
2. An Order to recover the filing fee – Section 72.

The Tenant and Landlord were given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Tenant entitled to the monetary amounts claimed?

Is the Tenant entitled to recovery of the filing fee?

### Background and Evidence

The Parties signed a tenancy agreement on February 15, 2012 to commence on March 15, 2012. The Landlord have previously met the Tenants, observed their dog and agreed that the Tenants could have a dog in the unit. The Landlord states that a copy of the strata rules, as provided to them by the management company, were provided to the Tenants indicating that a dog was allowed in the units. No mention of the size of dog was contained in these rules. The Landlord approved a move-in date for March 10, 2012. The Tenant states that upon moving into the unit, the Tenants were told by the Strata Council President that their dog was not allowed in the unit as it was larger than that allowed by the rules and that the Tenants must have been given a wrong copy of the rules. The Tenant states that the Landlord was called with this information and was told by the Landlord that they would try to fix the problem. The Landlord states that they

immediately tried to contact the Strata to arrange a meeting to dispute the President's position on the dog but that they were unable to contact anyone as it was the week-end. The Tenant states that the Landlord told them that a meeting was set up for March 12, 2012 to resolve the problem. At this point, the Tenants stopped moving into the unit and left some of their belongings in the rental truck. The Tenant states that as they were not able to keep their pet in the unit and as their dog has a medical condition that does not allow the dog to be away from the Tenants, the Tenants stayed at a family member's home.

On March 13, 2012, the Witness, also the mother of the Tenant, states that as there had been no contact from the Landlord, the Witness called the Strata President directly and was told that there was no discussion with the Landlord or the Strata agent about the dog, that no meeting was held or scheduled on the matter and that the dog was not allowed in the unit. The Tenant states that this information was provided to the Landlord who did not respond and as the Tenants felt that they had been lied to about the Landlord's efforts to resolve the problem that a new tenancy had to be found. The Tenants state and the Landlord does not dispute that the Landlord did not contact the Tenants any further. The Tenant then found another tenancy for March 14, 2012. The Tenant states that when the Landlord failed to return a call in relation to the return of the keys to the unit, the Tenant couriered the keys to the Landlord. The Landlord returned the security deposits to the Tenant.

The Tenant states that as they could not move into the unit, they incurred costs as follows:

- \$216.00, truck rental for an extra two days that they were unable to unload their belongings;
- \$914.76, moving cost to new location;
- \$1,050.00, lost employment income for march 10, 11, and 12;
- \$12.50, hydro transfer costs to new location; and
- \$14.63, courier costs for returning key to Landlord.

The Tenant provided receipts for all out of pocket costs except the hydro costs. No supporting evidence was provided for the lost employment income.

The Landlord states that the Tenants should not have moved out of the unit and that they should have waited for the meeting with the Strata Council. The Landlord states that while they believed they could resolve the dispute with the Strata Council, they did not know this for certain. The Landlord confirmed that the Strata Rules provide for a \$200.00 daily fine to be paid for the presence of a dog not approved by the Strata rules. The Landlord states that while the management company provided the Landlord with the wrong set of by-laws and that the Landlord relied on these bylaws to approve the Tenant's dog. The Landlord denies any responsibility for the Tenant's losses.

### Analysis

Section 7 of the Act provides that where a landlord does not comply with the Act, regulation or tenancy agreement, the landlord must compensate the tenant for damage or loss that results. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding party and that costs for the damage or loss have been incurred or established. Based on the undisputed evidence of the Parties, I find that the Tenant was unable to occupy his rental unit due to the presence of his dog, contrary to the tenancy agreement allowing such presence.

While it is clear that the Landlord did not disallow the dog, by failing to act to ensure the Tenant's rights to occupy the unit with the dog on the date of the agreed move-in, I find that the Landlord caused the Tenant losses. Given the receipts for the truck rental, moving costs and courier, I find that the Tenant has substantiated an entitlement to **\$1,145.39** (216.00 + 914.76 + 14.63). As no receipts were provided for the hydro transfer, I find that the Tenant has not substantiated these costs and I dismiss this part of the claim. As the Tenant did not supply any evidence in relation to his employment,

such as a verification that pay was lost on the dates claimed, I find that the Tenant has not substantiated this costs and I dismiss this part of the claim. As the Tenant has been substantially successful with its claim, I find that the Tenant is entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$1,195.39**.

Conclusion

I grant the Tenant an order under Section 67 of the Act for the amount of **\$1,195.39**. If necessary, this order may be filed in the Small Claims Court 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: May 23, 2012.

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Residential Tenancy Branch