



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MND, MNDC, MNSD, FF

### Introduction

A hearing was previously scheduled on April 24, 2012 in response to the landlord's application for a monetary order as compensation for damage to the unit, site or property / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee.

While the tenant appeared at the above hearing, the landlord did not. A decision was issued by date of April 24, 2012, pursuant to which a monetary order was issued in favour of the tenant.

Subsequently, the landlord successfully applied for review on the ground that he was unable to attend the hearing on April 24, 2012 because of circumstances that could not be anticipated and were beyond his control. In the result, by review decision dated May 11, 2012, the decision and order dated April 24, 2012 were suspended.

On the occasion of this re-scheduled hearing, both parties participated and gave affirmed testimony.

### Issue(s) to be Decided

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not before me, the initial six (6) month term of tenancy began on March 15, 2011. Following the end of the six (6) month term, tenancy continued on a month-to-month basis until on or about November 21, 2011. Monthly rent of \$1,350.00 was due and payable on the first day of each month, and a security deposit of \$675.00 was collected. There is no evidence of either a move-in or move-out condition inspection report.

During the hearing the parties exchanged views on some of the circumstances surrounding what has become a long-standing dispute, and undertook to achieve a resolution. Matters discussed included, but were not limited to, the comparative condition of the unit at the start and at the end of tenancy; and the various challenges faced by both parties during the term of the tenancy.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Section 63 of the Act speaks to the **Opportunity to settle dispute**, and provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion led to a resolution and the parties specifically agreed as follows:

### **RECORD OF SETTLEMENT**

- that the landlord will retain  $\frac{1}{2}$  of the security deposit in the amount of \$337.50 ( $\$675.00 \div 2$ );
- that the landlord will reimburse the tenant in the amount of the remaining  $\frac{1}{2}$  of the security deposit of \$337.50;
- that the above payment will be by cheque made payable to the tenant;
- that the above payment will be put into the mail as soon as possible, but by no later than midnight, Friday, June 8, 2012;
- that the above particulars comprise full and final settlement of all aspects of the dispute arising from this tenancy for both parties, such that both parties agree there will be no further related applications filed for dispute resolution.

I find that as the parties determined an outcome to the dispute that varies from the outcome originally sought by the landlord in his application, the landlord's application to recover the filing fee is hereby dismissed.

### Conclusion

Pursuant to section 82 of the Act which addresses **Review of director's decision or order**, the original decision and order dated April 24, 2012 are hereby set aside.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **\$337.50**. Should it be necessary, this order may be served on the landlord, 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: June 5, 2012.

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Residential Tenancy Branch