



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, FF

### Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking authority to retain the tenant's security deposit and to recover the cost of the filing fee from the tenant.

The landlord appeared; the tenant did not appear.

The landlord testified that she served the tenant with the application for dispute resolution and Notice of Hearing (the "Hearing Package") via personal delivery on July 17, 2012.

I find the tenant was served in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present her evidence and to refer to documentary evidence submitted prior to the hearing.

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, for authority to retain the tenant's security deposit and to recover the filing fee?

### Background and Evidence

This tenancy began on April 1, 2010, ended on June 8, 2012, monthly rent was \$850.00 and the tenant paid a security deposit of \$425.00 on or about March 31, 2010.

The landlord's claim is in the amount of \$965.00, which includes damage to carpet of \$600.00, carpet shampoo of \$85.00 and cleaning of \$280.00.

The landlord's agent said that the tenant failed to clean the rental unit and just left. In addition, the tenant stained the carpet to the extent that the stains could not be removed, requiring a carpet replacement.

The landlord's agent explained that the carpet was only three years old and that the landlord has asked for the repair/replacement costs, less any depreciation.

The landlord's relevant evidence included the condition inspection report, the tenancy agreement and a worksheet explaining their monetary claim.

### Analysis

Based on the testimony, evidence, and a balance of probabilities, I find as follows:

In the absence of the tenant, the landlord's evidence will be preferred.

In a claim for damage or loss under the Act or tenancy agreement, the claiming party, the landlord in this case, has to prove four different elements:

**First**, proof that the damage or loss exists, **second**, that the damage or loss occurred due to the actions or neglect of the Respondent in violation of the Act or agreement, **third**, to establish the actual amount required to compensate for the claimed loss or to repair the damage, and **last**, proof that the claimant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Where the claiming party has not met all four elements, the burden of proof has not been met and the claim fails.

I find the landlord provided sufficient evidence that the rental unit required cleaning and carpet shampooing as stated by the landlord. I therefore allow the landlord's claim for \$280.00 for cleaning and \$85.00 for carpet shampoo.

As to the landlord's claim for repair/replacement of carpet, I find the landlord submitted insufficient evidence to verify the costs of the repair/replacement as the landlord's agent confirmed that the landlord has not incurred a cost for this item as of the day of the hearing, although the rental unit has been vacant since June 8, 2012.

As the landlord failed to meet step 3 of their burden of proof, I dismiss the landlord's claim for \$600.00, without leave to reapply.

As I find at least partial merit with the landlord's application, I allow the landlord the filing fee of \$50.00.

### Conclusion

I find that the landlord has established a monetary claim in the amount of **\$415.00**, comprised of carpet shampoo of \$85.00, general cleaning for \$280.00 and the filing fee of \$50.00.

I allow the landlord to retain the amount of \$415.00 from the tenant's security deposit of \$425.00 in satisfaction of their monetary claim.

I also grant the tenant a final, legally binding monetary order in the amount of \$10.00, representing the balance due from her security deposit after the landlord has deducted their monetary award of \$415.00.

I have enclosed the monetary order for \$10.00 with the tenant's Decision. Should the landlord fail to pay the tenant this amount without delay, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement.

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: August 08, 2012.

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Residential Tenancy Branch