



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDC, LRE, RR

### Introduction

This matter dealt with an application by the Tenant for compensation for damage or loss under the Act. At the beginning of the hearing the Parties claimed that the tenancy had ended and as a result, the Tenant's application for an Order restricting the Landlord from entering the rental unit and for a rent reduction are dismissed without leave to reapply.

At the beginning of the hearing, the Tenant said he served the Landlord with his evidence package via registered mail on or about September 26, 2012. The Tenant did not have a receipt as confirmation of the date. The Landlord admitted that she recently received a Canada Post notification about registered mail but said she has not received the evidence package. Section 90(a) of the Act says a document delivered by mail is deemed to be received by the recipient 5 days later. Consequently, the Landlord was deemed to have received the Tenant's evidence package on October 1, 2012 or two days prior to the hearing. However, RTB Rule of Procedure 3.5 says an Applicant must serve their evidence on the Respondent *no later than 5 days prior to the hearing*. Consequently, find that the Tenant has not complied with the Rule for serving his evidence package and it is excluded pursuant to RTB Rule of Procedure 11.5(b).

### Issue(s) to be Decided

1. Is the Tenant entitled to compensation and if so, how much?

### Background and Evidence

This tenancy started on July 1, 2012 and ended on October 1, 2012 when the Tenant moved out. The rental unit is a bachelor suite in a house containing a total of five suites. The kitchen facilities in the rental unit included a refrigerator, hot plate and sink. Rent was \$590.00 per month which included all utilities.

The Tenant said that on August 26, 2012 the Landlord removed his hot plate pursuant to an Order of the municipality because he claimed it was an illegal suite. The Tenant said the hotplate was reconnected on September 21, 2012 but that during the time he was without it he had additional expenses for meals because he had to eat out. The Parties agree that approximately a week later, the Landlord gave the Tenant a key to a neighbouring suite so that he could use the cooking facilities in it. The Tenant said he

did not feel comfortable using that suite because many of the previous tenant's belongings were still there and he did not want to be accused of taking anything so he returned the key to the Landlord. The Tenant said the Landlord returned the key to him assured him that he would not be accused of taking anything but then another tenant of the rental property moved into that suite and demanded the key from him. The Landlord said a few days after the hotplate was disconnected, she also gave the Tenant a microwave to use. The Tenant claimed that the Landlord gave him the microwave to use a week before the hotplate was reconnected and that he was hesitant to use it because his own microwave had burned out which he believed was due to inadequate wiring in the rental property.

The Tenant said his rent was supposed to include cable however the cable was not installed for the first month of the tenancy. The Tenant said that when he asked the Landlord about it at the beginning of the tenancy she told him that it would take a month unless she paid \$100.00 for installation and that he would then have to pay one-half of the cost. The Landlord said that when the Tenant viewed the suite she told him that the cable might not be hooked up right away and he just told her that "he would work with her on it." However, the Landlord said when the Tenant moved in he said he wanted it right away and it took some time before a technician could connect it.

The Tenant also claimed that the Landlord entered his suite without his consent on one occasion and posted a notice of entry (to remove the hotplate) for the following day on his television set. The Tenant said on another occasion, the Landlord sent him a notice of entry for her realtor via text message which he did not receive and as a result, the following day, the realtor attempted to enter the rental unit while he was naked. The Tenant said the Landlord appeared to be under the mistaken belief that she did not need his permission to enter the rental unit and only needed to give him a notice of entry if someone else was coming into the rental unit. The Landlord denied that her realtor tried to enter the rental unit as alleged by the Tenant and said she entered on only one occasion.

The Tenant further claimed that the Landlord yelled at him a number of times during the tenancy. The Tenant said the Landlord yelled at him when he demanded that she hook up the cable or that he would do it himself and deduct it from his rent. The Tenant said the Landlord also yelled at him when he insisted on a receipt for his August rent payment which he made by cash. The Tenant said instead, the Landlord came to the rental unit with a One Month Notice and demanded a pet deposit even though she had waived the payment of one at the beginning of the tenancy. The Tenant said the Landlord also got mad at him on one occasion when he asked her to fix the hot plate. The Tenant said the Landlord appeared to be under the mistaken belief that he was responsible for repairing it. The Tenant said the Landlord yelled at him on October 1, 2012 when he asked her to return his security deposit. The Tenant said the Landlord had no right to keep it because she did not do a condition inspection report at the beginning of the tenancy.

The Landlord said on October 1, 2012, the Tenant showed up at her residence and demanded his security deposit back plus one month's rent but and would not return the keys to the rental unit. The Landlord said she did not have time to give the Tenant a receipt when he made his August rent payment and told him she would give him one later but forgot to do so. The Landlord said she gave the Tenant receipts for his July rent payment and security deposit which he paid in cash.

The Tenant also claimed that the Landlord refused to give him a copy of the tenancy agreement and then she denied that he had signed one. The Landlord said she posted a copy of the tenancy agreement on the rental unit door but believes the Tenant removed it and threw it out.

### Analysis

Section 27 of the Act says that if a Landlord restricts or terminates a service or facility that is included in the rent, the Landlord must reduce the rent by an amount equal to the value of the service or facility that was terminated. I find that the Tenant's cooking facilities and cable were included in the rent. I find that for the first month of the tenancy, the Tenant did not have cable. I also find that for a month period, the Tenant did not have the use of a hot plate in the rental unit. Although the Landlord offered the Tenant the use of cooking facilities in a neighbouring suite during part of this time, I find that the Tenant was entitled to his own cooking facilities rather than having to use those in another suite in the rental property. I also find that there is insufficient evidence that the Tenant had the use of a microwave for the whole month in question. Consequently, I award the Tenant **\$50.00** for not having cable for a month and **\$100.00** for the loss of use of his cooking facilities for a month.

Section 28 of the Act says a Tenant has a right to quiet enjoyment including but not limited to reasonable privacy and exclusive use of the rental unit subject only to the Landlord's right to enter under s. 29 of the Act. Given the contradictory evidence of the Parties, I find that there is insufficient evidence that the Landlord's realtor entered the rental unit without authorization. However, I find that the Landlord did enter the rental unit on at least one occasion for the purpose of giving him a notice of entry without first obtaining the Tenant's consent. Consequently, I award the Tenant **\$25.00** given that the Landlord did not have a right under s. 29 of the Act to enter the rental unit and thereby breached the Tenant's right to privacy.

I make no award of compensation as a result of arguments the Tenant had with the Landlord over a rent receipt, hotplate repair and security deposit. Although the Tenant argued that this showed the Landlord was not complying with the Act, I find that he did not suffer damages as a result of them. Instead, ***I Order the Landlord pursuant to s. 62(3) of the Act to comply with the Act by providing the Tenant immediately with a copy of his tenancy agreement and a receipt for his August 2012 rent payment.*** I find that the Landlord's obligation to return the Tenant's security deposit does not arise

until the Tenant has provided her with his forwarding address in writing which as of the date of the hearing he had not done.

### Conclusion

A Monetary Order in the amount of \$175.00 has been issued to the Tenant and a copy of it must be served on the Landlord. If the amount is not paid by the Landlord, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: October 04, 2012.

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Residential Tenancy Branch