



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MND, MNSD and FF

### Introduction

This hearing was convened on an application by the landlord made on September 13, 2012 seeking a monetary award for unpaid rent, damage to the rental unit, recovery of the filing fee for this proceeding and authorization to retain the security and pet damage deposit in set off against the balance owed.

Despite having been served with the Notice of Hearing sent on September 15, 2012 by registered mail to the address provided by the tenant, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

### Issue(s) to be Decided

This matter requires a decision on whether the landlord is entitled to monetary award for the claims submitted and in what amounts.

Claims in damages require that several factors be taken into account: the comparison of move-in vs. move-out condition inspection reports, whether damages are proven and attributable to the tenants, normal wear and tear, depreciation, and whether amounts claimed are proven and reasonable. Damage or loss due to non-compliance with the legislation or rental agreement requires the claimant to take reasonable steps to minimize the loss claimed. The burden of proof falls to the applicant.

### Background, Evidence and Analysis

This tenancy began on June 1, 2001 and ended on July 31, 2012 pursuant to a Notice to End Tenancy for unpaid rent dated July 6, 2012. Rent was increased from \$1,476 to

\$1,530 (including extra parking) effective May 1, 2012. The landlord holds a security deposit of \$562.50 paid on April 19, 2001 and a pet damage deposit of \$637.50 paid on January 20, 2009.

During the hearing, the landlord submitted into evidence 79 photographs, move-in/move condition inspection report, the latter of which was not attended by the tenant, and a number of receipts, work sheets and copies of cheques. One of the property managers in attendance stated that she had been mindful of the long duration of this tenancy in preparing her claims and had made a conscious effort to minimize amounts wherever possible. The agent submitted the following claims on which I find as follows:

**Unpaid rent for April 2012 - \$1,476.** In the absence of any evidence to the contrary, and noting an email from the tenant to the landlord of September 1, 2012 in which the tenant acknowledges indebtedness to the landlord with a promise to make payment in installments, this claim is allowed in full.

**Unpaid rent for July 2012 - \$1,530.** This claim is allowed in full.

**General cleaning - \$650.** Taking into account the photographic evidence, and the testimony of the cleaner of the condition of the rental unit and an accounting of approximately 40 hours work, I find this claim to be proven and it is allowed in full.

**Carpet cleaning - \$123.20** This cost was incurred by the landlord in an unsuccessful effort to remove pet soiling odours from the carpet which one of the property managers said actually worsened after cleaning. The claim is allowed in full. .

**Treatment for fleas - \$125.** The agents and cleaner gave evidence that the rental unit was infested with fleas requiring two treatments. The agents had submitted into evidence a copy of the Pet Authorization form signed by the tenant on January 20, 2012 in which the tenant agrees to pay for any necessary such fumigation at the end of the tenancy. This claim is allowed in full.

**Refuse removal - \$162.40.** The agents stated that this claim is only half of the invoiced charge for removal of refuse from the rental property at the end of the tenancy as they had not charged the tenant for hauling of carpets. This claim is allowed in full.

**Sealing walls & floors re cat urine - \$155.33.** This claim is for labour and materials to apply a sealant on the floors and walls to deal with the odour of cat urine that had been sprayed on walls and that had penetrated to the sub floor and that had remained after washing. The claim is allowed in full.

**Prime wall for painting - \$479.63.** This claim, supported by receipts for materials and labour, does not include finish coats but was made necessary by the tenant having, without consent, repainted with richer colors that required priming to cover. The rental agreement stipulates that tenants are responsible for re-priming if they have changed colors. The claim is allowed in full.

**Carpet replacement - \$1,078.03.** This claim is made up of one-third of the landlord's paid invoice of \$3,234.09 for new carpeting which had been new at the beginning of the tenancy. The agents stated that the carpeting is of a type they have used in other units in the complex that is three or four years older and continues to stand up well. The agent s reduced the claim to one-third based of their on their experience that the carpeting had at least another five years of useful life. Only the cat soiling and what appeared to be spilled hair dye necessitated it premature replacement. The claim is allowed.

**Filing fee - \$100.** As the application has succeeded on its merits, I find that the landlord is entitled to recover the filing fee for his proceeding from the tenant.

**Security and pet damage deposits plus interest – (\$1,232.22).** The landlord has requested authorization to retain in set off against the balance owed the total of the security deposit of \$526.50, interest from May 1, 2001 to date of \$32.22 and the pet damage of deposit of \$637.50 on which no interest is due. As authorized under section 72 of the *Act*, I order that the landlord may retain the deposits in set off against the balance owed. .

Thus, I find that the tenant owes to the landlord an amount calculated as follows:

Unpaid rent for April 202	\$1,476.00
General cleaning \$650	650.00
Carpet cleaning	123.20
Treatment for fleas	125.00
Refuse removal	162.40
Seal walls & floors re cat urine	\$155.33
Prime wall for painting	479.63
Carpet replacement 1,078.03	1,078.03
Filing fee	<u>100.00</u>
Sub total	\$5,879.59
Less retained security & pet deposits with interest	- 1,232.22
<b>TOTAL remainder owed to landlord</b>	<b>\$4,647.37</b>

### Conclusion

In addition to authorization to retain the security deposit in set off, the landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for **\$4,647.37** for service on the tenant.

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: November 30, 2012.

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Residential Tenancy Branch