



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNR, MND, MNDC, MNSD, SS, FF

### Introduction

This hearing was scheduled in response to the landlord's application for a monetary order as compensation for unpaid rent / 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 / permission to serve documents or evidence in a different way than required by the Act / and recovery of the filing fee.

The landlord attended the hearing and gave affirmed testimony. Despite in-person service on October 23, 2012 of the application for dispute resolution and notice of hearing (the "hearing package") by a professional process server, the tenant did not appear.

Documentary evidence submitted by the tenant is limited to two (2) pages, copies of which the landlord testified she had not received. The tenant's evidence was faxed to the Branch on January 15, 2013. In part, the tenant's documentary evidence includes the following statement:

This is evidence for hearing scheduled on January 21<sup>st</sup> 2013.

Following from the above, I find that the tenant was served with the hearing package, and that she was therefore fully informed of all particulars related to the time and date of the hearing, and of steps required to be taken in order to participate in the hearing.

### 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, the tenancy began on December 1, 2009. Monthly rent of \$1,400.00 was due and payable in advance on the first day of each

month, and a security deposit of \$700.00 was collected. There is no move-in condition inspection report in evidence.

Arising from rent which remained unpaid when due on July 1, 2012, the landlord issued a 10 day notice to end tenancy for unpaid rent, a copy of which is not in evidence. The notice was posted on the tenant's door in July 2012. Subsequently, without providing notice, the tenant vacated the unit on or about July 14, 2012. The tenant left no forwarding address and failed to either give the keys to the landlord at the time she vacated, or leave the keys inside the unit.

Upon entering the unit, the landlord determined that considerable cleaning and repairs were required. There is no move-out condition inspection report in evidence.

Following completion of cleaning and repairs, on-line advertising for new renters began on craigslist and kijiji around mid September 2012. Thereafter, new renters were found effective October 1, 2012.

### 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)

Based on the documentary evidence which includes miscellaneous receipts and photographs, and the affirmed / undisputed testimony of the landlord, the various aspects of the landlord's claim and my findings around each are set out below.

**\$1,400.00: unpaid rent for July 2012.** In her documentary submission, the tenant has not disputed that she vacated the unit in July 2012 without notice, and without paying rent for July 2012. Based on the tenant's documentary evidence, in addition to the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the landlord has established entitlement to the full amount claimed.

**\$1,400.00: unpaid rent for August 2012.** Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the landlord has established entitlement to the full amount claimed.

**\$700.00: unpaid rent for the period September 1 to 15, 2012.** Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the landlord has established entitlement to the full amount claimed.

**\$106.40:** locksmith for mailbox locks. Section 37 of the Act speaks to **Leaving the rental unit at the end of a tenancy**, and provides in part as follows:

37(2) When a tenant vacates a rental unit, the tenant must

(b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

In her written submission, the tenant claims she mailed keys to the property manager “shortly upon moving out.” Even if this claim is correct, I find that the tenant’s failure to either give the keys directly to the landlord or leave them in the unit at the time when she vacated, left the landlord with no reasonable alternative but to rekey the mailbox locks in a timely manner. Accordingly, I find that the landlord has established entitlement to the full amount claimed.

**\$211.68:** carpet cleaning. In her written submission, while the tenant disputes that certain stains in the carpet were the result of her tenancy, she does not deny that she did not have the carpets cleaned at the time when she vacated the unit. In this regard, section 37 of the Act, as above, provides in part:

37(2) When a tenant vacates a rental unit, the tenant must

(a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and...

Further, Residential Tenancy Policy Guideline #1 addresses “Landlord & Tenant – Responsibility for Residential Premises,” and under the heading CARPETS, provides in part as follows:

3. The tenant is responsible for periodic cleaning of the carpets to maintain reasonable standards of cleanliness. Generally, at the end of the tenancy the tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year. Where the tenant has deliberately or carelessly stained the carpet he or she will be held responsible for cleaning the carpet at the end of the tenancy regardless of the length of tenancy.

Following from the above, I find that the landlord has established entitlement to the full amount claimed.

**\$37.79: carpet stain remover.** The landlord testified that she purchased this product after the carpets had been cleaned, as stains still remained in the carpet. However, in the absence of the comparative results of move-in and move-out condition inspection reports, this aspect of the claim is hereby dismissed. Further, the attention of the parties is drawn the following particular sections of the Act:

**Section 23: Condition inspection: start of tenancy or new pet**

**Section 24: Consequences for tenant and landlord if report requirements not met**

**Section 35: Condition inspection: end of tenancy**

**Section 36: Consequences for tenant and landlord if report requirements not met**

**\$207.20: window repair.** Based on the documentary evidence, a photograph of the window and the affirmed / undisputed testimony of the landlord, I find that the landlord has established entitlement to the full amount claimed.

**\$132.98: miscellaneous labour / materials for repairs.** In the absence of the comparative results of move-in and move-out condition inspection reports, and in consideration of the effects of “reasonable wear and tear,” I find that this aspect of the application must be dismissed.

**\$140.00: garbage removal / recycling.** Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the landlord has established entitlement to the full amount claimed.

**\$582.94: paint & key / lock / remote control & related supplies.** In addition to the absence of move-in and move-out condition inspection reports, and further to the provisions set out in section 37 of the Act which address “reasonable wear and tear,” as above, Residential Tenancy Policy Guideline # 40 speaks to the “Useful Life of Building Elements;” this Guideline provides that the useful life of interior paint is four (4) years. The landlord testified that the unit was not painted during either of the two separate year-long tenancies in this unit which preceded the subject tenancy which, itself, was between 2 ½ and 3 years long. Accordingly, I find that the useful life of the interior paint had been exceeded by the time the subject tenancy ended. In the result, this aspect of the application must therefore be dismissed with the exception of cost incurred for the replacement of key(s) / lock(s) / remote control(s), which I find totals **\$116.98**.

**\$111.72: paint supplies / cleaning / plumbing.** For reasons identical to some of those set out immediately above, this aspect of the application is hereby dismissed.

\$36.62: miscellaneous supplies. In the absence of comparative results of move-in and move-out condition inspection reports, and in view of receipts which associate these costs principally with cleaning and painting supplies, this aspect of the application is hereby dismissed.

\$31.25: replacement parts for fridge. In the absence of comparative results of move-in and move-out condition inspection reports, or photographs of the fridge, this aspect of the application is hereby dismissed.

\$150.00: process server. Section 72 of the Act addresses **Director's orders: fees and monetary orders**. With the exception of the filing fee for an application for dispute resolution, the Act does not provide for the award of costs associated with litigation to either party to a dispute. Accordingly, this aspect of the application is hereby dismissed.

\$50.00: filing fee. As the landlord has achieved a measure of success with this application, I find that the landlord has established entitlement to recovery of the full filing fee.

Sub-total:

Following from all of the above I find that the landlord has established entitlement to a claim of \$4,332.26. I order that the landlord retain the security deposit of \$700.00, and I hereby grant the landlord a **monetary order** under section 67 of the Act for the balance owed of **\$3,632.26** (\$4,332.26 - \$700.00).

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$3,632.26**. Should it be necessary, this order may be served on the tenant, 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: January 22, 2013

