



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Remcan Holdings #2  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes:

CNR, MNDC, RR, FF

### Introduction

This hearing was convened in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied to set aside a Notice to End Tenancy for Unpaid Rent; for a monetary Order for money owed or compensation for damage or loss; for authorization to reduce the rent; and to recover the fee for filing an Application for Dispute Resolution. At the hearing the Tenant withdrew the application to set aside the Notice to End Tenancy, as all of the rent was paid within five days of the Tenant receiving the Notice to End Tenancy.

The Tenant stated that the Application for Dispute Resolution, the Notice of Hearing, and documents/photographs he wishes to rely upon as evidence were delivered to the Landlord's mail slot sometime in January of 2013. The Landlord acknowledged receiving the documents/photographs and they were accepted as evidence for these proceedings.

### Issue(s) to be Decided

Is the Tenant entitled to compensation because the rental unit was not ready for occupancy at the start of the tenancy?

### Background and Evidence

The Landlord and the Tenant agree that this tenancy began on November 01, 2012 and that the Tenant is required to pay monthly rent of \$870.00 by the first day of each month.

The Tenant stated that he was prepared to move into the rental unit on November 03, 2012; that the rental unit was not clean; and that on November 03, 2012 he informed the Landlord that cleaning and some repairs were required.

The Landlord stated that the Tenant was prepared to move into the rental unit on November 06, 2012; that the rental unit was not clean; and that on November 06, 2012 the Tenant informed him that cleaning and some repairs were required.

The Tenant submitted photographs of the rental unit that show significant cleaning was required at the start of the tenancy. The parties agree that a significant amount of the cleaning was required as a result of repairs that had been made in the rental unit, and that other areas of the rental unit needed to be cleaned.

The Landlord and the Tenant agree that the Landlord cleaned some areas in the rental unit. The Landlord contends that some cleaning was completed on November 09, 2012 or November 10, 2012. The Tenant contends that none of the cleaning was completed by the Landlord until after he left the city on November 16, 2012 or November 17, 2012.

The Tenant stated that he was working in Calgary and he had to leave the city before the rental unit was cleaned. He stated that he moved some boxes into the rental unit prior to leaving the city but he did not move his larger furniture into the rental unit until the Tenant returned to the city during the first week of December. He is seeking compensation for the cost of living elsewhere prior to leaving the city, for the cost of storing his property until he could move it into the rental unit, and for the time/money he spent cleaning the rental unit.

The Tenant stated that some areas of the rental unit still required cleaning when he returned in December and that he spent approximately 16 hours cleaning the rental unit. The Tenant submitted photographs of the stove and a fan prior to the Tenant moving into the unit in December and photographs of the stove and fan after he cleaned them in December.

The Landlord and the Tenant agree that the railing on the balcony was not fully installed at the start of the tenancy and that some minor repairs were not complete at the start of the tenancy.

The Landlord apologized for the Tenant's inconvenience and offered to compensate the Tenant in the amount of \$435.00, which is the equivalent of ½ month's rent. The Tenant stated that the Landlord did not make this offer prior to this hearing.

### Analysis

On the basis of the undisputed testimony and the photographs, I find that the rental unit required significant cleaning when the Tenant began moving into the rental unit in November of 2012. On the basis of the photographs of the stove and the fan, I find that the rental unit had not been thoroughly cleaned by the time the Tenant began living in the rental unit in December of 2012. I therefore find that the Tenant is entitled to compensation for the condition of the rental unit at the start of the tenancy.

Section 7 of the *Residential Tenancy Act (Act)* requires a tenant who claims compensation for damage or loss that results from a landlord's failure to comply with the *Act* must do whatever is reasonable to minimize the damage or loss. On the basis of the photographs submitted in evidence, I find that it would only have taken two or three days to bring this rental unit to a reasonable state of cleanliness. I therefore find that the Tenant should have mitigated his losses by either cleaning the rental unit himself or hiring a cleaning service to clean the unit on his behalf, at which point he could have moved into the rental unit.

Had the Tenant mitigated his losses by having the rental unit cleaned, he would only have had to find alternate accommodations for a few days; he would have only incurred an additional few days of storage costs; and he would have incurred cleaning costs, all of which he could have attempted to recover from the Landlord. As the Tenant did not adequately mitigate his losses, I find that he is not entitled to all of the costs he has claimed.

I do find that the Tenant is entitled to compensation for the inconvenience of having to coordinate the cleaning to the rental unit; to compensation for the cleaning he did; for costs associated to storing his property and finding alternate accommodations for a few days after he became aware the rental unit required cleaning; and for compensation related to the repairs that were not complete at the start of the tenancy.

I find that the \$435.00 offered by the Landlord is more than reasonable and I grant the Tenant compensation in this amount.

I find that the Tenant's application has merit and that he is entitled to compensation for the cost of filing his Application for Dispute Resolution, which was \$50.00.

### Conclusion

I authorize the Tenant to reduce one monthly rent payment by \$485.00, in full satisfaction of his monetary claim.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: March 27, 2013

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Residential Tenancy Branch

