



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 304768 B.C. Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDC, MNSD, LAT, RR, O

### Introduction

An extensive amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties and the witnesses the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties and the witnesses.

All testimony was taken under affirmation.

### Issue(s) to be Decided

This is an application for a monetary order for \$25,000.00.

### Background and Evidence

The applicant testified that:

- When she moved into the rental unit she was told that the carpet was new, however the carpet had a large amount of particulate in the carpet, so much so

that it destroyed her vacuum cleaner. As a result she had to buy a new vacuum cleaner.

- Her old vacuum cleaner was approximately 10 to 12 years old.
- When the landlords replaced her kitchen cabinets and sink they were going to use an old faucet and she did not want them to do so and therefore she purchased the faucet of her own and believes that the landlords should pay for this.
- When she moved on to the rental property there was no proper garden and as a result she cleaned up the area and put in a beautiful garden.
- There was black mould in the rental unit which the landlord's did not deal with in a timely manner and as a result she got a fungal infection which cost her a great deal of money in medication costs.
- She has decided that when this dispute with the landlord is finalized she is going to move out of the rental unit and therefore she wants her security deposit returned.
- Due to the problems with the mould, and due to the fact that there is a very noisy drug dealer living next door she has had a total loss of use and enjoyment of the rental unit and therefore wants her full rent returned.
- She is also asking for a further \$15,174.58 for having to put up with the problems of the rental unit and the noise from the tenants next door causing her health problems and loss of sleep.

The applicant is therefore requesting a monetary order as follows:

Cost of replacement vacuum	\$677.87
Cost of kitchen faucet	\$97.99
Cost of gardening supplies	\$90.94
Cost of medications	\$408.62
Return of security deposit	\$450.00
Return of all rent paid	\$8100.00
Loss of use and enjoyment	\$15,174.58
Total	\$25,000.00

The respondent testified that:

- The rug in the rental unit was installed new in March of 2012 and therefore they fail to see how it could've been as dirty as the tenant claims.
- We were not going to put a used faucet in the kitchen, we had a number of new faucets and offered to put one in, however the tenant did not want the faucet we offered, and bought one of her own. We therefore do not believe we should have to pay for the tenant's faucet.
- When the tenant requested to put in her own faucet she was informed it would have to stay when she vacated.
- When tenants move into the rental property they're told they're welcome to do gardening if they wish, and this tenant chose to do so, however she was under no obligation to do so, and at no time did we offered to pay for her costs of gardening.
- They do not believe they should have to pay for the tenant's medication costs as they believe they dealt with the mould issue in a timely manner. Further one of the tenants Blue Cross invoices shows that she was purchasing some of the same medication well before she moved into the rental property.
- They fail to see why they should be returning the tenants rent when she had possession of the rental unit for the full period of time, and although they don't believe she moved in until the end of July 2012, she had the right to move in on June 1, 2012.
- They also do not believe that they should be paying the tenant, in excess of, \$15,000.00 for loss of use and enjoyment. They find the tenant to be a very difficult person who complains about many things. The tenant has called the police numerous times but no charges have ever been laid against her neighbours.
- The neighbours also deny causing disturbances, and no other tenants in the rental property have complained about the neighbours. They fail to see how they could possibly have done anything further when the only evidence they have is the claims from the applicant.

- Further the tenant has denied access on occasion to the landlord's caretaker to deal with matters in the rental unit.

### Analysis

#### Vacuum cleaner

It's my finding that the applicant has not shown that her vacuum cleaner was damaged by particulate from the carpet in the rental unit. This was an older vacuum cleaner that may well have just broken down from normal wear and tear.

Further even if the vacuum had been damaged by particulate in the carpet, the vacuum was 10 to 12 years old and would be considered fully depreciated and of no value.

#### Kitchen faucet

It's my decision that I will not allow the claim for the cost of the kitchen faucet, as the landlord was willing to install a faucet of their own. It was the tenant's own choice to purchase a faucet of her own.

#### Gardening supplies

I also deny the claim for gardening supplies. The tenant was under no obligation to do gardening and therefore if she chose to do so it's at her own expense.

#### Cost of medications

I also deny the tenants claim for the cost of medications. The tenant claims that she contracted a fungal infection due to black mould in the rental unit, however it's my finding that she is not met the veridant of proving that the infection was the result of toxic mould, or that the infection was even contracted at the rental unit. The mould in the rental unit was never tested to see whether it was toxic or not.

Security deposit

The claim for the return of the security deposit is premature because this tenancy has not yet ended, and the landlord does not have to return the security deposit when the tenancy is still ongoing.

Return of all rent paid & Loss of use and enjoyment

I also deny the tenants claim for the return of all rent paid and for \$15,174.58 for loss of use and enjoyment.

The tenant claims that she had virtually no use of the rental property due to the problem with the mould, and the disturbances from the tenants in the adjoining suite, however based on the evidence presented it's my finding that the landlords dealt with the mould issue in a reasonable manner, and within a reasonable timeframe. Further as stated previously, there was never any testing done to see if there was toxic mould in the suite.

Also, since it's basically just the applicant's word against that of the tenants in the adjoining suite, and those tenants deny causing any disturbances, it's my finding that the tenant has not met the burden of proving that the tenants in the adjoining suite are unreasonably disturbing her.

Conclusion

This application is dismissed in full without leave to reapply.

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: March 15, 2013

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Residential Tenancy Branch

