



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BC Housing  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MND, MNR, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for unpaid rent and for damage to the unit, site or property pursuant to section 67;
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another. The representative for Tenant LB was only authorized to act on behalf of her and not the other tenant. Tenant LB's representative (the tenant) confirmed that on January 16, 2013, his office received a copy of the landlord's dispute resolution hearing package sent by the landlord by registered mail on January 14, 2013. At the tenant's suggestion, the landlord sent an additional copy of the hearing package to the other tenant at an address his office had for that tenant. I am satisfied that the landlord sent the other tenant another copy of the dispute resolution hearing package by registered mail at this more recent address on March 20, 2013. The landlord provided copies of all of the Canada Post Tracking Numbers and noted that Canada Post's on-line tracking system revealed that the other tenant received the second hearing package on March 22, 2013. I am satisfied that the landlord served these packages and the landlord's written evidence package in accordance with the *Act*.

### Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent and for damage arising out of this tenancy? Is the landlord entitled to recover the filing fee for this application from the tenants?

### Background and Evidence

This periodic tenancy commenced on October 1, 2005. Monthly rent when the tenants vacated the rental premises by February 28, 2011 totalled \$653.00 per month. The

landlord presented undisputed written evidence that Tenant LB's portion of this market rent was set at \$163.25 and Tenant TB's portion of the monthly rent was set at \$489.75.

The landlord submitted copies of a joint move-in inspection report of September 30, 2005 and a move-out condition inspection report conducted solely by the landlord's representatives on March 1, 2011. The landlord also entered into written evidence a copy of a Notice of Final Opportunity for Inspection requesting that the tenants attend a proposed final condition inspection on March 1, 2011 at 10:30 a.m.

The landlord's application for a monetary award of \$1,102.35 included a request for unpaid rent owing from February 2011 of \$516.75, \$487.00 for cleaning, and \$98.60 for repairs on a door and a towel bar in the bathroom. The landlord also requested recovery of the filing fee for the landlord's application from the tenants. The landlord submitted receipts for the cleaning and repair work performed on the premises, and photographs taken at the end of the tenancy.

The tenant did not dispute the landlord's claim for cleaning and repairs. The sole issue that the tenant disputed was the landlord's claim that there was unpaid rent of \$516.75 at the end of this tenancy. The tenant cited records that he had that noted that his office paid Tenant TB's \$163.25 portion of the February 2011 rent on January 25, 2011. He speculated that the landlord may have erred in reversing the figures for Tenant TB's payment of rent on January 25, 2011 as \$136.25 instead of the \$163.25 actually paid that date. The tenant noted that this error would lead to the amount identified as owing in the landlord's application (i.e., \$653.00 - \$136.25 = \$516.75).

### Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

Based on the landlord's undisputed evidence, I find that the landlord is entitled to a monetary award for \$487.60 in cleaning and \$98.60 for damage arising out of this tenancy. I do so as I find that the tenants did not comply with the requirement of section 38(2)(a) of the *Act* to leave the rental premises reasonably clean and undamaged except for reasonable wear and tear.

Although the landlord's female representative asserted that her \$516.75 figure for unpaid rent owing for February 2011 was correct, she did not submit any convincing written evidence to support her assertion. Since this was the landlord's claim for unpaid rent and she provided no tenant ledger to substantiate this aspect of her claim, I find that the tenant submitted a more convincing explanation for why the landlord's claim was in error. I find that the landlord is entitled to a monetary award of \$489.75 for unpaid rent owing at the end of this tenancy, rather than the \$516.75 claimed by the landlord. This figure results from my acceptance of the tenant's undisputed assertion that his office paid all \$163.25 owed by Tenant TB for February 2011 on January 25, 2011 (i.e., \$653.00 - \$163.25 = \$489.75).

As the landlord has been successful in this application, I find that the landlord is entitled to recover the \$50.00 filing fee for this application from the tenants.

### Conclusion

I issue a monetary Order in the landlord's favour under the following terms, which allows the landlord to recover unpaid rent, damage to the unit and the landlord's filing fee:

Item	Amount
Unpaid February 2011 Rent	\$489.75
Cleaning	487.00
Repairs to Door and Towel Bar	98.60
Recovery of Filing Fee for this Application	50.00
<b>Total Monetary Order</b>	<b>\$1,125.35</b>

The landlord is provided with these Orders in the above terms and the tenant(s) must be served with this Order as soon as possible. Should the tenant(s) fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: April 10, 2013

---

Residential Tenancy Branch