



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Vancouver Management Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MND MNR MNSD FF

### Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the *Residential Tenancy Act* (the "Act") for a monetary order for unpaid rent or utilities, for damage to the unit, site or property, to keep all or part of the security deposit, and to recover the filing fee.

An agent for the landlord (the "agent") and a building manager for the landlord appeared at the teleconference hearing and gave affirmed testimony. During the hearing the agent and building manager were given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice") was considered. The agent provided affirmed testimony that the Notice was served on the tenant by registered mail on January 17, 2013. The agent provided a registered mail tracking number as evidence and confirmed that the name and address matched the name of the tenant and the forwarding address for the tenant provided by the tenant on the move-out condition inspection report submitted in evidence. Documents sent by registered mail are deemed served five days after mailing under the *Act*. The agent stated that the registered mail showed as "successfully delivered" according to the online registered mail tracking website on January 18, 2013. The evidence package was sent via registered mail to the tenant at the forwarding address provided by the tenant on March 28, 2013, and showed as "delivered" on April 4, 2013, according to the online registered mail tracking website. I find the tenant was sufficiently served in accordance with the *Act*.

### Issues to be Decided

- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?
- What should happen to the tenant's security deposit under the *Act*?

### Background and Evidence

A fixed term tenancy began on January 2, 2012 and was to expire on January 1, 2013. Monthly rent in the amount of \$900.00 was due on the first day of the month. A security deposit of \$450.00 was paid by the tenant at the start of the tenancy.

The landlord submitted in evidence a letter from the tenant dated November 29, 2012 indicating that the tenant would be vacating the rental unit on December 15, 2012 due to bed bugs. The agent testified that the landlord was treating the rental unit for bed bugs and were being responsive to the tenant, however, her notice to vacate was not valid as the tenancy was a fixed term tenancy that did not expire until January 1, 2013 and the agent was responding as soon as possible to any complaints made by the tenants. The landlord submitted invoices in evidence supporting the bed bug treatment dates.

The agent stated that tenant vacated the rental unit on December 15, 2012 having failed to pay rent for December 2012 and therefore owes \$900.00. The agent stated that the tenant failed to properly clean the rental unit and failed to have the carpets professionally cleaned. As a result, the landlord is seeking monetary compensation in the amount of \$90.00 for carpet cleaning, and \$45.00 for window and stove cleaning and submitted invoices as evidence for both. The landlord also submitted a copy of the condition inspection report which indicates the condition at the start and the end of the tenancy including that the carpets were dirty and in need of cleaning, and that the stove and walls were dirty.

### Analysis

Based on details of the application and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

**Notice from tenant** – The landlord submitted a letter dated November 29, 2012 from the tenant stating that due to bed bugs, the tenant was vacating the rental unit on December 15, 2012. Section 45 of the *Act* states:

Section 45 of the *Act* states:

**45** (2) A tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that

**(a) is not earlier than one month after the date the landlord receives the notice,**

**(b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and**

**(c) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.**

**(3) If a landlord has failed to comply with a material term of the tenancy agreement or, in relation to an assisted or supported living tenancy, of the service agreement, and has not corrected the situation within a reasonable period after the tenant gives written notice of the failure, the tenant may end the tenancy effective on a date that is after the date the landlord receives the notice.**

(4) A notice to end a tenancy given under this section must comply with section 52 [*form and content of notice to end tenancy*].

**[emphasis added]**

Given the above, **I find** the tenant breached section 45 of the *Act* by failing to provide the landlord a reasonable time to correct the situation in the rental unit related to bed bugs and breached the fixed term tenancy agreement. Furthermore, the tenant is unable to end a fixed term tenancy early by sending a letter dated November 29, 2012 and vacating the rental unit approximately two weeks later, without giving the landlord a “reasonable opportunity” to correct the situation, in this case bed bugs, within a reasonable period. **I find** that the tenant giving two weeks’ notice before vacating is not a reasonable period of time for the landlords to address the issue of bed bugs.

**Claim for December 2012 unpaid rent** – The agent testified that rent for the month of December 2012 was not paid resulting in rent owing in the amount of \$900.00. Pursuant to section 26 of the *Act* a tenant must pay rent when it is due in accordance with the tenancy agreement. Based on the above, **I find** that the tenant failed to comply with a standard term of the tenancy agreement which stipulates that rent is due monthly on the first of each month. **I find** the landlord has met the burden of proof and I award the landlord **\$900.00** for unpaid rent for December 2012.

**Claim for carpet cleaning and general cleaning** – The landlord is seeking \$90.00 for carpet cleaning and \$45.00 for general cleaning to the rental unit. The receipts submitted in evidence show a higher amount, \$296.80 for carpet cleaning and carpet repair, however the agent stated that the landlord will only seek \$90.00 as that is the amount they indicated in the move-out condition inspection report so will only claim that amount. An invoice for \$45.00 for general cleaning was also submitted which indicates three hours at \$15.00 per hour for a total of \$45.00. The condition inspection report submitted in evidence supports that the carpets were in need of cleaning as were the stove and walls.

Section 37 of the *Act* states:

**Leaving the rental unit at the end of a tenancy**

**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**

**(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.**

**[emphasis added]**

**I find** the tenant failed to leave the rental unit in reasonably clean condition as required by section 37 of the *Act* based on the undisputed testimony of the agent. **I find** the landlord has met the burden of proof in proving their claim for carpet cleaning and general cleaning and that the amount being claimed is reasonable. Therefore, **I grant** the landlord **\$90.00** for carpet cleaning, and **\$45.00** for general cleaning.

As the landlord has succeeded with their application, **I grant** the landlord the recovery of the filing fee in the amount of **\$50.00**.

I find that the landlord is entitled to monetary compensation pursuant to section 67 in the amount of **\$1,085.00** comprised of \$900.00 in unpaid rent, \$90 for carpet cleaning, \$45.00 for general cleaning, and \$50.00 for the filing fee. The landlord continues to hold the tenant's security deposit of \$450.00, which has accrued no interest since the start of the tenancy. The total monetary award of **\$1,085.00** meets the criteria under section 72(2)(b) of the *Act* to be offset against the tenant's security deposit. I authorize the landlord to retain the tenant's full security deposit of \$450.00 in partial satisfaction of the

claim and I grant the landlord a monetary order under section 67 for the balance due to the landlord by the tenant in the amount of **\$635.00**. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

### Conclusion

I find that the landlord has established a total monetary claim of **\$1,085.00**. I authorize the landlord to retain the tenant's security deposit of \$450.00 in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of **\$635.00**. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 09, 2013

---

Residential Tenancy Branch

