



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Mainstreet Equity Corp.  
and [tenant name suppressed to protect privacy]

## **DECISION**

### **Dispute Codes:**

MND; MNDC; MNSD; FF

### **Introduction**

This is the Landlord's application for a Monetary Order for damages to the rental unit and loss of revenue; to retain a portion of the security deposit in satisfaction of its monetary claim; and to recover the cost of the filing fee from the Tenant.

The Landlord's agent ("RO") testified that she mailed the Notice of Hearing documents to the Tenant, by registered mail, to the forwarding address that he provided at the end of the tenancy. The Tenant acknowledged receipt of the documents by registered mail.

The parties gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

### **Issues to be Decided**

- Is the Landlord entitled to compensation for loss of revenue from February 1 to 14, 2013, and for the cost of repairing blinds in the rental unit?
- May the Landlord deduct its monetary award from the security deposit and pet damage deposit?

### **Background and Evidence**

A copy of the tenancy agreement was provided in evidence. This tenancy was a fixed term lease, beginning August 1, 2012, and ending August 1, 2013. The Tenant moved out of the rental unit on January 29, 2013. Monthly rent was \$1,100.00, due on the first day of each month. At the beginning of the tenancy, the Tenant paid a security deposit in the amount of \$550.00 and a pet damage deposit in the amount of \$200.00.

A move out Condition Inspection Report was completed on February 1, 2013, a copy of which was provided in evidence. The Tenant was present at the move out inspection and signed the section of the report indicating that he did not agree to the Landlord

retaining \$580.00 from the security and pet damage deposit. The Landlord filed its Application for Dispute Resolution on February 7, 2013.

The Landlord seeks compensation in the amount of **\$30.00** for blind repair and loss of revenue in the amount of **\$550.00** for the period between February 1 and 14, 2013. RO stated that the rental unit was advertised for rent as soon as the Landlord got the Tenant's notice to end the tenancy dated January 6, 2013. RO stated that the Landlord was able to re-rent the rental unit effective February 15, 2013, and therefore only suffered ½ a month's revenue.

The Tenant testified that he agreed to the \$30.00 charge for repairing the blinds, but not to the loss of revenue portion of the Landlord's claim. The Tenant stated that he had to move out because there were cockroaches in the rental unit. The Tenant stated that after he told RO about the cockroaches, she sent an exterminator, but the Tenant found another nest under the sink and decided that it was not healthy for him to stay.

RO stated that the Tenant did not mention finding a nest under the sink. She stated that the new occupant has not complained about cockroaches in the rental unit.

### **Analysis**

The Tenant does not dispute the Landlord's claim in the amount of **\$30.00** for the cost of repairing the blinds. Therefore, this portion of the Landlord's claim is granted.

I find that the Landlord has provided sufficient evidence to prove its claim in the amount of **\$550.00** for lost revenue. Section 45(2) and (3) of the Act provides for the only ways a tenant can end a fixed term tenancy:

### **Tenant's notice**

**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.

(emphasis added)

The Tenant ended the tenancy before the end of the term, contrary to Section 45(2)(b) of the Act. In addition, the Tenant did not provide the Landlord with written notice of pest control issues, or a reasonable amount of time to correct the issue. Therefore, I find that the Tenant did not end the tenancy in accordance with the provisions of the Act, and that the Landlord suffered a loss as a result of the Tenant's breach of the Act.

The Landlord has been successful in its application and I find that it is entitled to recover the cost of the **\$50.00** filing fee from the Tenant.

Pursuant to the provisions of Section 72(2)(b) of the Act, the Landlord may apply a portion of the security deposit in satisfaction of the Landlord's monetary award. No interest has accrued on the security deposit.

I order that the Landlord return the balance of the security deposits to the Tenant forthwith, calculated as follows:

Security deposit and pet damage deposit	\$750.00
Less cost of repairing blinds	-\$30.00
Less loss of revenue (February 1 – 14, 2013)	\$550.00
Less recovery of filing fee	-\$50.00
<b>RESIDUE OF SECURITY DEPOSITS TO RETURN TO TENANT</b>	<b>\$120.00</b>

### **Conclusion**

The Landlord has established a total monetary award of **\$630.00** against the Tenant. I order that the Landlord retain \$630.00 from the security and pet damage deposits and return the residue in the amount of \$120.00 to the Tenant forthwith.

I hereby provide the Tenant with Monetary Order in the amount of **\$120.00** for service upon the Landlord. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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: May 07, 2013

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Residential Tenancy Branch