



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

OPR, MNR, MNDC, MNSD, FF

### Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord requested a monetary Order for unpaid rent, compensation for damage or loss under the Act, an Order of possession, to retain the security deposit and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that on June 16, 2013 copies of the amended Application for Dispute Resolution and Notice of Hearing were personally given to the tenant at 5:47 p.m., by the landlord. The landlord provided a copy of a sworn affidavit, outlining the method, place and time of service to the tenant.

The original application had been given to the tenant by his employer; the tenant sent the landlord a text message dated June 4, 2013, at 3:07 p.m., confirming receipt of papers. A copy of that message was supplied as evidence.

Based on the sworn affidavit and, in accordance with section 89 and 90 of the Act, I find that the amended application and evidence was given to the tenant on June 16, 2013 and that he has been served with the documents.

### Preliminary Matters

The initial application had requested an Order of possession; the landlord now has possession of the unit.

The landlord's application details included a claim for damage to the rental unit and compensation for damage or loss.

### Issue(s) to be Decided

Is the landlord entitled to a monetary Order for unpaid rent?

Is the landlord entitled to compensation for damage to the rental unit?

Is the landlord entitled to compensation for damage or loss under the Act?

Is the landlord entitled to retain the security deposit paid by the tenant?

Is the landlord entitled to filing fee costs?

### Background and Evidence

The tenancy commenced on September 14, 2012; the unit came supplied with bedding and kitchen items; an inventory list was supplied as evidence. Rent was \$850.00 per month, due on the 1<sup>st</sup> day of each month. A deposit in the sum of \$425.00 was paid. A copy of the tenancy agreement was supplied as evidence.

Condition inspection reports were not completed.

The landlord has made the following claim for compensation:

March 2013 rent	\$50.00
April 2013 rent	850.00
May 2013 rent	850.00
Vacumn cleaner	504.00
Cleaning	255.00
Repairs and locks	83.62
Painting	194.25
<b>TOTAL</b>	<b>\$2,786.87</b>

On May 16, 2013 the landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent which was served by posting to the tenant's door. A copy of the Notice supplied as evidence indicated that the tenant owed \$1,750.00 rent from March to May 2013 inclusive.

The landlord was able to take possession of the unit on May 26, 2013. The tenant did not return the keys to the landlord; the unit had to be re-keyed.

The tenant has not given the landlord a written forwarding address.

Copies of emails and text messages sent to the tenant by the landlord, requesting payment, were supplied as evidence. The tenant had responded to the landlord that he had talked to a friend about a loan and that he was having banking issues.

The landlord rented the home with a vacumn cleaner left in the unit for the tenant's use. When the tenant vacated the vacumn went missing. The landlord has obtained an estimate for replacement. The vacumn was not included as an item on the inventory list.

The landlord supplied a copy of an invoice in the sum of \$255.00 for cleaning of the unit. Photographs submitted as evidence were difficult to view, but the landlord was able to describe them. The tenant left garbage in the unit, beds were torn apart, a table was upside down with a broken leg; the kitchen was not cleaned. An invoice provided as evidence indicated that cleaning for 9.5 hours was completed at \$25.00 per hour. The landlord paid this invoice on June 1 2013.

A June 9, 2013 invoice in the sum of \$83.62 was supplied for the cost of new lock set and a lock, plus repair of a light fixture and damaged trim.

A photograph of a wall showed that paint had been scraped on a living room wall. The paint was approximately 2 years old. A June 13, 2013 invoice supplied as evidence indicated a cost in the sum of \$194.25, paid on June 16, 2013, for 2 coats of paint on the living room wall, for paint and labour.

### Analysis

When making a claim for damages under a tenancy agreement or the Act, the party making the allegations has the burden of proving their claim. Proving a claim in damages requires that it be established that the damage or loss occurred, that the damage or loss was a result of a breach of the tenancy agreement or Act, verification of the actual loss or damage claimed and proof that the party took all reasonable measures to mitigate their loss.

In the absence of the tenant, who was served with Notice of this hearing, I find that the landlord's claim for unpaid rent has merit. A Notice ending tenancy was issued to the tenant and the tenant vacated the rental unit without paying the rent that was due in the sum of \$1,750.00 owed between March and May 2013 inclusive.

Section 37(2) requires a tenant to leave a unit reasonably clean and free from damage outside of normal wear and tear. I find, based on the evidence before me that the tenant did not leave the unit reasonably clean; that damage was caused outside of normal wear and tear and that the landlord is entitled to compensation for the sum verified on the invoices.

As the tenant failed to return the keys to the landlord I find that the landlord is entitled to the cost of re-keying.

As the vacuum cleaner was not included as a term of the tenancy agreement I find that the loss of the vacuum does not fall within the jurisdiction of the Act.

Based on the testimony of the landlord, the photographs and invoice supplied as evidence I find that the landlord is entitled to the cost of painting, as claimed.

Therefore, the landlord is entitled to the following:

	Claimed	Accepted
March 2013 rent	\$50.00	\$50.00
April 2013 rent	850.00	850.00
May 2013 rent	850.00	850.00
Vacumn cleaner	504.00	0
Cleaning	255.00	255.00
Repairs and locks	83.62	83.62
Painting	194.25	194.25
<b>TOTAL</b>	<b>\$2,786.87</b>	<b>\$2,282.87</b>

I find that the landlord is entitled to retain the \$425.00 security deposit in partial satisfaction of the claim.

I find that the landlord's application has merit and that the landlord entitled to recover the \$50.00 filing fee from the tenant for the cost of this Application for Dispute Resolution.

Based on these determinations I grant the landlord a monetary Order in the sum of \$1,907.87. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

### Conclusion

The landlord is entitled to a monetary Order.

The landlord may retain the security deposit.

The landlord is entitled to filing fee costs.

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: June 27, 2013

---

Residential Tenancy Branch

