



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding E Y Properties Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes:

MNR, MND, MNSD, FF

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for unpaid rent; for a monetary Order for damage to the rental unit; to keep all or part of the security deposit; and to recover the fee for filing this Application for Dispute Resolution.

The Agent for the Landlord stated that the Application for Dispute Resolution, the Notice of Hearing, and documents the Landlord wishes to rely upon as evidence were sent to the Tenant, via registered mail, at the address noted on the Application, on April 17, 2013. The Agent for the Landlord cited a Canada Post tracking number that corroborates this statement. The Agent for the Landlord stated that the documents were unclaimed and were returned to the Landlord by Canada Post. The Agent for the Landlord stated that the Tenant provided the service address to the Tenant at the end of the tenancy. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Act*, however the Tenant did not appear at the hearing.

### Issue(s) to be Decided

Is the Landlord entitled to compensation for unpaid rent; to collect a NSF fee; to compensation for damage to the rental unit; and to retain all or part of the security deposit paid by the Tenant?

### Background and Evidence

The Agent for the Landlord stated that this tenancy began on July 01, 2011; that the Tenant was required to pay rent of \$890.00 by the first day of each month; that the Tenant paid a security deposit of \$445.00; that the Tenant paid a pet damage deposit of \$445.00; that the tenancy ended on March 31, 2013; that the Tenant tendered a

cheque, in the amount of \$470.00, in partial payment for rent for March of 2013; that the cheque was returned by the Tenant's financial institution; and that the Tenant still owes \$470.00 in rent for March. A tenancy agreement was submitted that corroborates some of this testimony and which shows that the Tenant agreed to pay a fee of \$25.00 if a cheque is returned by the Tenant's financial institution.

The Landlord is seeking compensation, in the amount of \$675.70, for cleaning the rental unit, which includes cleaning the carpet, cleaning one set of blinds, general cleaning, and disposing of furniture left on the residential property. The Agent for the Landlord stated that the rental unit, including the drapes, required cleaning and that the Tenant left furniture, including a couch, on the property. The Landlord submitted photographs to show the rental unit required significant cleaning. The Landlord submitted a copy of a receipt for the aforementioned cleaning and disposal costs.

The Landlord is seeking compensation, in the amount of \$200.00, to repair and paint walls in the rental unit. The Landlord submitted photographs to show the walls had been damaged in at least two places. The Agent for the Landlord stated that the walls were damaged during the tenancy. The Landlord submitted a copy of a receipt for repairing and painting the damaged walls.

The Landlord is seeking compensation, in the amount of \$200.00, to replace a set of drapes. The Agent for the Landlord stated that the drapes were shredded by the Tenant's cat. The Agent for the Landlord stated that the drapes were approximately 5 years old. The Agent for the Landlord stated that the Landlord obtains a bulk price for curtains and that the cost of replacing these drapes was \$300.00, as stated on the cost of repair sheet submitted in evidence.

The Agent for the Landlord stated that the Landlord is holding a \$50.00 key deposit and a \$1.40 laundry credit that the Landlord would like to apply to any amount owing by the Tenant.

### Analysis

On the basis of the undisputed evidence, I find that the Tenant still owes \$470.00 in rent for March of 2013. As he was required to pay rent when it was due, pursuant to section 26 of the *Residential Tenancy Act (Act)*, I find that the Tenant must pay the Landlord \$470.00 in outstanding rent. As the Tenant tendered a cheque for rent in March of 2013 that was returned by his financial institution and the tenancy agreement requires the Tenant to pay a fee of \$25.00 whenever a cheque is returned, I find that the Landlord is entitled to a fee of \$25.00 for the returned cheque.

On the basis of the testimony of the Agent for the Landlord and the photographs submitted in evidence, I find that the Tenant failed to comply with section 37(2) of the *Act* when he failed to leave the rental unit in reasonably clean condition. I therefore find that the Landlord is entitled to compensation for any damages that flow from the

Tenant's failure to comply with the *Act*, which in these circumstances is \$675.70 for cleaning and disposal costs.

On the basis of the testimony of the Agent for the Landlord and the photographs submitted in evidence, I find that the Tenant failed to comply with section 37(2) of the *Act* when he failed to repair walls that were damaged during the tenancy. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the *Act*, which in these circumstances is \$200.00 for repairing the walls.

On the basis of the testimony of the Agent for the Landlord, I find that the Tenant failed to comply with section 37(2) of the *Act* when he failed to repair the drapes that were damaged by his cat and that it cost the Landlord \$300.00 to replace the drapes.

Claims for compensation related to damage to the rental unit are meant to compensate the injured party for their actual loss. In the case of fixtures in a rental unit, a claim for damage and loss is based on the depreciated value of the fixture and not based on the replacement cost. This is to reflect the useful life of fixtures, such as carpets and drapes, which are depreciating all the time through normal wear and tear.

The Residential Tenancy Policy Guidelines show that the life expectancy of drapes is ten years. The evidence shows that the damaged drapes were five years old. I therefore find that the drapes have depreciated by 50% and that the Landlord is entitled to 50% of the cost of replacing the drapes, which is \$150.00.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

### Conclusion

The Landlord has established a monetary claim, in the amount of \$1,570.70, which is comprised of \$470.00 in unpaid rent, \$25.00 for a returned cheque, \$675.70 for cleaning, \$350.00 for damages to the property, and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.

Pursuant to section 72(2) of the *Act*, I authorize the Landlord to retain the pet damage and security deposits, in the amount of \$890.00, in partial satisfaction of this monetary claim. As per the request of the Landlord, I further reduce the amount of the monetary claim by the \$50.00 key deposit and \$1.40 laundry credit being held by the Landlord.

Based on these determinations I grant the Landlord a monetary Order for the amount \$629.30. 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.

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: July 10, 2013

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Residential Tenancy Branch