



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BC HOUSING MANAGMENT COMMISSION  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** MND, MNR, FF

### **Introduction**

This Dispute Resolution hearing was set to deal with an Application by the landlord for a monetary order for rent owed, cost of changing the locks at the tenant's request during the tenancy, cleaning and repairs to replace a broken window.

The landlord appeared. Despite being served by registered mail sent on June 14, 2013, the tenant did not appeared.

### **Issue(s) to be Decided**

Is the landlord entitled to monetary compensation under section 67 of the *Act* for rent owed and damages?

### **Background**

The landlord testified that the tenancy began on July 1, 2010 and rent was \$510.00. No security deposit was paid. The tenancy ended on July 9, 2012.

A copy of the tenancy agreement, copies of the move-in and move-out condition inspection reports, copies of communications, invoices, photos and proof of service were submitted into evidence.

The landlord testified that at the time the tenant left, rental arrears of \$115.00 were owed for the period from July 1, 2012 until July 9, 2012 and this is being claimed.

In addition to the above, the landlord is claiming compensation for the requested change of locks during the tenancy in the amount of \$35.00 and the cost of repairing a broken window damaged during the tenancy in the amount of \$282.57. Copies of the invoices to support these claims were in evidence.

The landlord testified that the tenant did not participate in the move-out condition inspection, despite being served with a Notice of Final Opportunity to Schedule the Move Out Inspection. The landlord testified that the tenant did not leave the rental unit

reasonably clean as required under the Act and the landlord is seeking \$100.00 in cleaning costs, supported by an invoice for the job.

The total amount being claimed is \$532.57, plus the \$50.00 cost of filing.

**Analysis:**

Section 26 of the Act states that rent must be paid when it is due, under the tenancy agreement, whether or not the landlord complies with the Act, the regulations or the tenancy agreement. I find that the tenant did not pay the pro-rated rent for July 2012 and the landlord is entitled to \$115.00 for rental arrears.

With respect to the cleaning and damages, an Applicant's right to claim damages from another party is dealt with under section 7 of the Act which states that, if a landlord or tenant does not comply with the Act, the regulations or the tenancy agreement, the non-complying party must compensate the other for damage or loss that results. Section 67 of the Act grants a dispute Resolution Officer the authority to determine the amount and to order payment under these circumstances.

It is important to note that in a claim for damage or loss under the Act, the party claiming the damage or loss bears the burden of proof and the evidence furnished by the applicant must satisfy each component of the test below:

**Test For Damage and Loss Claims**

1. Proof that the damage or loss exists,
2. Proof that this damage or loss happened solely because of the actions or neglect of the Respondent in violation of the Act or agreement,
3. Verification of the actual amount required to compensate for the claimed loss or to rectify the damage, and
4. Proof that the claimant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage.

In this instance, the burden of proof was on the landlord, to 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 respondent.

In regard to the cleaning and repairs, I find that under section 32 of the Act a tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. While a tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential

property by the tenant, a tenant is not required to make repairs for reasonable wear and tear. Section 37(2) of the Act also states that, when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

In regard to the compensation requested for damages and losses, I find that the landlord's claim has successfully met each of the four elements of the test for damages. Given the above, I find that the landlord is entitled to a monetary order in the amount of \$417.57.

I find that the landlord is entitled to total compensation of \$582.57 comprised of \$115.00 for rent, \$417.57 for cleaning and other damages and the \$50.00 cost of the application.

I hereby issue a monetary order in favour of the landlord for \$582.57. This order must be served on the tenant in accordance with the Act and if necessary can be enforced through Small Claims Court.

### **Conclusion**

The landlord is successful in the application and is granted a monetary order for rental arrears, cleaning and repairs.

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: September 19, 2013

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Residential Tenancy Branch

