



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, MNDC

### Introduction

This is an application filed by the Tenant for an order to cancel a notice to end tenancy issued for cause and a request for a monetary for money owed or compensation for damage or loss.

Both parties attended the hearing in person at Burnaby and gave testimony. As both parties have attended and have confirmed receipt of the Tenant's notice of hearing package, I am satisfied that both parties have been properly served with the notice of hearing package.

The Landlord has confirmed receipt of the Tenant's evidence package. The Landlord states that the Tenant was served with their documentary evidence by leaving on a chair in front of the rental address. The Tenant states that no documentary evidence has been received by the Landlord. As there is no evidence to support the Landlord's claim of service of their documentary evidence, these documents cannot be considered for the hearing. However in reviewing the Landlord's material during the hearing with the Tenant, I have determined that the documentary evidence consists of the Landlord's written response to the Tenant's claims. As such, both parties were informed that the Landlord may verbally enter the responses during the hearing in their direct testimony.

Section 63 of the Residential Tenancy Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the two parties during the hearing led to a resolution. Specifically, it was agreed as follows:

Both parties agreed to mutually end the tenancy on January 31, 2014 at or before 1:00pm.

The above particulars comprise full and final settlement of all aspects of the dispute arising from this application for both parties concerning possession.

The hearing shall proceed on the Tenant's monetary claim.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order?

Background and Evidence

Both parties agreed that this tenancy began on August 1, 2013 on a month to month basis and that there is no signed tenancy agreement.

The Tenant seeks a monetary claim for \$5,000.00. This consists of a claim for damages to property, the loss of the Tenant's property and compensation for trips to and from the laundry because the Landlord would not provide access to the laundry, recovery of costs (ie, digital photo printing, photocopying, postage, bus fare to and from the RTB). The Landlord disputes these claims. The Tenant states that laundry facilities were included in the rent, but that the Landlord failed to provide access to these laundry facilities. The Landlord confirmed that laundry was included with the rent, but that only on one occasion that the access was arranged on a Monday, but that the Landlord was busy with other matters and did not give access to the Tenant to the laundry facilities. The Tenant states that since moving in that he has made 4 trips (once weekly) to the local Laundromat via taxi. The Tenant has submitted copies of two receipts from August 30, 2013 for \$9.50 and \$9.80, totalling \$19.30. The Tenant also states that he is seeking compensation for damage to his personal property at the rental unit. The Landlord disputes this claim. The Tenant states that the damage is caused inside his rental unit and must be the fault of the Landlord. The Tenant also seeks compensation for the loss of property. The Landlord disputes this claim. The Tenant states that he is missing a camera, computer, cables, tools, a black and decker mulcher and an electric edger. The Tenant states that he believes the Landlord is responsible, but has no evidence to support this claim. The Tenant states that a complaint was filed with the police, but that no charges have been laid and that the police referred the Tenant to the Residential Tenancy Branch for resolution via a civil process. The Tenant states that there are many boxes missing, but that he is unsure what items are missing which he has included in this claim. The Landlord denies entering the rental unit without notice or that any damage or loss of property were caused by the Landlord. The Tenant has also made allegations of harassment and bullying by the Landlord. The Landlord disputes these claims.

Analysis

Section 72 of the Act addresses **Director's orders: fees and monetary order**. With the exception of the filing fee for an application for dispute resolution, the Act does not provide for the award of costs associated with litigation to either party to a dispute.

Accordingly, the Tenant's claim for recovery of litigation costs (photo printing, copying, postage, bus fare to and from the RTB) are dismissed.

When a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. To prove a loss the applicant must satisfy the following four elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

I find on a balance of probabilities that the Tenant has failed to provide sufficient evidence that the damage/loss occurred due to the actions or neglect of the Landlord. In the case of recovery of transportation for laundry(taxi), the Tenant has failed to provide details of any steps taken to mitigate or minimize the loss, as in communication to arrange an alternate time for laundry use. The Tenant has not provided any details of why the laundry had to be done on August 30, 2013 as opposed to an alternate day. The Tenant has also failed to provide sufficient evidence to satisfy me of an actual amount required for compensation. For example an accounting of the \$5,000.00 claim, ie. a monetary worksheet or a breakdown of the compensation sought detailing the claim. The Tenant's monetary claim is dismissed.

### Conclusion

Both parties have mutually agreed to end the tenancy on January 31, 2014.

The Landlord is granted an order of possession for January 31, 2014.

The Tenant's application for compensation is dismissed.

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: October 23, 2013

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Residential Tenancy Branch

