



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Capilano Property Management Services  
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes: MND, MNDC, MNSD, FF

### Introduction

This hearing concerns the landlord's application for a monetary order as compensation for damage to the unit, site or property / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of all or part of the security deposit / and recovery of the filing fee. Both parties attended and gave affirmed testimony.

### Issue(s) to be Decided

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, the fixed term of tenancy is from October 1, 2012 to March 31, 2013. Pursuant to the tenancy agreement, "the tenancy may continue on a month-to-month basis or another fixed length of time" at the end of the fixed term. Monthly rent of \$650.00 is due and payable in advance on the first day of each month, and a security deposit of \$325.00 was collected. A move-in condition inspection report was completed with the participation of both parties.

Following notice given by the tenant, tenancy ended effective April 30, 2013. A move-out condition inspection report was completed with the participation of both parties. By letter dated June 23, 2013, the tenant informed the landlord of his forwarding address. The tenant testified that he mailed the letter on that same date. Pursuant to section 90 of the Act which speaks to **When documents are considered to have been received**, the tenant's letter is deemed to have been received 5 days later on June 28, 2013. Subsequent to the date when the tenant's letter is deemed to have been received, the landlord's application was filed 13 days later on July 11, 2013.

### Analysis

Based on the documentary evidence and testimony of the parties, the various aspects of the landlord's claim and my findings around each are set out below.

*\$100.00: 4 hours of general unit cleaning at \$25.00 per hour*

Section 37 of the Act addresses **Leaving the rental unit at the end of a tenancy**, and provides in part as follows:

37(2) When a tenant vacates a rental unit, the tenant must

(a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and...

The tenant disputes this aspect of the claim, and takes the position that he left the unit "reasonably clean" at the end of his tenancy.

I note that on the move-out condition inspection report opposite "Apartment cleaned," a check mark appears in the YES box. Further, while the move-out condition inspection report notes costs sought by the landlord which concern painting, cleaning of carpets and cleaning of drapes, there is no indication on the report that costs are being sought in relation to general cleaning of the unit.

In consideration of all the foregoing, I find that the landlord has failed to meet the burden of proving entitlement to this aspect of the claim, and it is hereby dismissed.

***\$95.00: cleaning drapes & \$120.00: carpet cleaning***

As the tenant does not dispute either of these aspects of the claim, I find that the landlord has established entitlement to the full amounts claimed.

*\$110.00: painting in the unit*

The landlord's agent testified that the unit was painted in September 2012, immediately prior to when this tenancy began on October 1, 2012.

Residential Tenancy Policy Guideline # 40 speaks to the “Useful Life of Building Elements,” and provides that the useful life of interior paint is 4 years. I note that this tenancy was limited to 7 months in duration.

The tenancy agreement includes no provision which prohibits smoking in the unit. However, item # 9 of the “Additional Terms” appended to the tenancy agreement provides as follows:

9. Smoking:

Smokers may find themselves liable for smoke-related damages

In view of the absence of a specific smoking provision in the tenancy agreement itself, the relatively short term of the tenancy, and the broadly worded provision set out in the “Additional Terms,” immediately above, I find that the landlord has established entitlement limited to **\$55.00**, or half the amount claimed.

**\$50.00:** *filing fee*

As the landlord has achieved a significant measure of success with the application, I find that the landlord has established entitlement to full recovery of the filing fee.

**Sub-total entitlement: \$320.00**

I hereby order that the landlord retain **\$320.00** from the security deposit of \$325.00, and that the landlord repay the balance of the security deposit to the tenant in the amount of **\$5.00** (\$325.00 - \$320.00)

Conclusion

The landlord is hereby ordered to retain **\$320.00** from the tenant's original security deposit of \$325.00.

The landlord is hereby ordered to repay the tenant **\$5.00** from the tenant's original security deposit of \$325.00.

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 10, 2013

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Residential Tenancy Branch

