



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNSD, MNDC, FF

### Introduction

This matter dealt with an application by the Landlord for a Monetary claim for compensation for damage to the unit, site or property, for compensation for loss or damage under the Act, regulations or tenancy agreement, to retain the Tenant's security deposit and to recover the filing fee for this proceeding.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on June 12, 2013. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

This Hearing was adjourned from September 16, 2013 to today as neither party had received the other party's evidence packages. Both Parties confirmed receiving the evidence packages for the Hearing today.

### Issues(s) to be Decided

1. Are there damages to the unit, site or property and if so how much?
2. Is the Landlord entitled to compensation for the damage and if so how much?
3. Are there other losses or damages and is the Landlord entitled to compensation?
4. Is the Landlord entitled to keep the Tenant's security deposit?

### Background and Evidence

This tenancy started on February 1, 2012 as a month to month tenancy. Rent was \$1,275.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$640.00 on January 15, 2012 and a pet deposit of \$635.00 on January 19, 2012. The Landlord said the Tenant gave the Landlord notice on May 1, 2013 that she was moving out of the rental unit on May 31, 2013. The Landlord said a move in condition inspection report was completed on January 15, 2013 with photographs and a move out condition inspection report was completed June 1, 2013 with photographs as well. The Landlord continued to say the Tenant did not participate

in the move out condition inspection report and was given two opportunities to participate. The Landlord said they had scheduled an inspection at 1:00p.m. on May 31, 2013 and a written Final Notice of inspection was scheduled for 8:00 a.m. on June 1, 2013. The Tenant said the Landlord was aggressive towards her so she did not want to participate in the move out condition inspection report.

The Landlord said the rental unit was left in very poor condition and therefore she incurred expenses to clean, repair and replace items in the unit to bring it back to a condition that was ready to rent again. The Landlord said her monetary claim is as follows:

1. Cleaning the inside of the House in the amount of \$640.00 and a paid receipt is included in the evidence.
2. Replacement of broken heat vents for \$41.00, paid receipt is included in the evidence. The Landlord said the vents were in good condition but were old.
3. Electrical work for \$180.86 for an inspection because of potential damage to the electrical wiring from a yoga swing and hanging wicker chair as well as repairs to some electrical outlets that the Landlord said the Tenant had pulled out from the wall.
4. Replacement of the broken hot tub lid for \$532.00, paid receipt include in the evidence. The Landlord submitted a letter from the neighbor who said she saw the Tenant's children on the hot tub lid.
5. Replacement shed door, brackets and handles for \$110.08, paid receipt included in the evidence. The Landlord said the shed was made of metal and was about 5 years old. This is an estimated of the cost to repair the shed door.
6. Labour to hang the shed door for \$25.00 paid receipt included in the evidence. This is an estimate as well.
7. Replacement of a broken fan in the bedroom for \$180.14, paid receipt included in the evidence. The Landlord said the light worked find, but the fan did not turn.
8. Replacement cost of carpet in laundry and furnace rooms for \$1,047.81 and replacement of carpet in rec. room for \$1,306.17 receipt and quote included in the evidence. The Landlord said the laundry carpet was approximately 10 years old and the rec. room carpet was approximately 13 years old. The Landlord said the carpets need to be replaced as there was dog feces and urine in the carpet. The Landlord included a quote from a carpet company which confirmed the dog stained carpets.
9. Yard work clean up and carpet removal for \$300.00 and \$660.00 paid receipts included in the evidence. The Landlord said the yard was a mess and the carpets were a health hazard because of the dog urine and feves.
10. Replacement of door lock and cleaning supplies for \$182.52 paid receipt included in the evidence. The Landlord said this was due to the Tenant not returning the keys to the unit.
11. Trim for floor in bedroom for \$11.19 paid receipt included in the evidence.
12. \$5.51 for a receipt book paid receipt included in evidence.

13. \$91.03 for gas to travel to Williams Lake to do the repairs.
14. Replacement window coverings for an estimated amount of \$200.00.
15. The cost of photographs for this hearing \$68.50.
16. Stationary supplies for the presentation of evidence for this hearing in the amount of \$19.55.
17. The cost of servicing documents by registered mail in the amount of \$10.08.
18. The filing fee of \$100.00.

The Landlord said her total claim is \$5,711.44 and she is requesting to retain the Tenant's security and pet deposits totaling \$1,275.00.

The Tenant said that the Landlord insisted that she be out of the unit at 7:00 p.m. and that did not allow enough time to properly clean the rental unit. As well the Tenant said she believes the Landlord is overstating the costs as this was an old house and needed repairs when the Tenant moved in. The Tenant said she thinks the Landlord is trying to get her to pay for the Landlord's renovations.

The Tenant continued to say they left the yard in better condition than when they moved in, the Hot tub was not part of the tenancy and it was old and broken when they moved in. As well the Landlord's nephew played at the house and the Tenant thought he was on the hot tub lid. Further the Tenant said the carpets were old and strained when they moved in and the shed door fell off when she tried to use it. As well the Tenant said they had electrical problems throughout the tenancy and they believe the repairs to the electrical are because of the age of the property. The tenant said she did put holes in the ceiling for the yoga swing and wicker chair, but there were a number of holes in the ceiling at the start of the tenancy. The Tenant said these holes did not affect the electrical and the house was old and the electrical needed upgrading. The Tenant continued to say the bathroom sink was not clogged when they were in the unit and the carpet in the laundry room was completely destroyed at the start of the tenancy. The Tenant continued to say there were no dog feces or urine in the carpets in the basement. In addition the heat vents were very old and were not on good condition at the start of the tenancy.

The Tenant said the rental unit is old and most of the issues the Landlord is bringing up are normal wear and tear.

The Landlord provided a Witness B.B. The Witness B.B. said she saw the house prior to move in and was with the Landlord when the move in photographs were developed. The Witness said the house was in immaculately clean condition. The Witness also said she had dog sat for the Tenant and the dogs had urinated and dropped feces on the carpet in the basement. As well the Witness said that she was with the Landlord when the Landlord took the move out photographs and the rental unit was in very poor condition. The Witness said it looked like it had not been cleaned in a long time.

The Tenant said in closing that she believes the Landlord is trying to get her to pay for the Landlord's renovations on an old house and the Landlord is overstating the whole issue.

The Landlord said in closing that the Tenant has not lived up to her obligations as a Tenant and now the Tenant should pay for the damages that she caused.

### Analysis

For a monetary claim for damage of loss to be successful an applicant must prove a loss actually exists, prove the loss happened solely because of the actions of the respondent in violation to the Act, the applicant must verify the loss with receipts and the applicant must show how they mitigated or minimized the loss.

In determining a damage claim a base line is established by the move in condition inspection report. If there is no report then damage cannot be calculate, but in this situation there is a move in condition inspection report sign and agreed to by both parties. The report dated January 15, 2012 shows the rental unit to be in good condition with no major deficiencies. As well the Landlord provided photographs that she said were taken on move in and move out. Because of the Witness's affirmed corroborative testimony I accept these photographs as representative of the condition of the rental unit on move in and move out.

The Landlord has proven a loss existed and she verified many of the losses with copies of paid receipts for the claims that the Landlord has made. In addition I accept the Tenant's testimony that the rental unit is old and many of the items the Landlord is claiming were at the end of their economic life. Consequently I find the following monetary claim for the Landlord:

- 1). I award the \$640.00 for cleaning as the Tenant said she only did a partial clean when she moved out.
- 2). The mailing costs of \$10.08 for the hearing are not eligible and are dismissed.
- 3). The \$180.86 for the electrical inspection is dismissed as the house is old and I accept the Tenant's testimony that there were electrical issue in the house.
- 4). The Tenant confirmed that children played on the hot tub lid and the letter from the neighbours confirms this so I find the Tenant did not protect the hot tub from misuse and is therefore responsible for some of the replacement cost. As the hot tub lid is 12 years old I award the Landlord 25% of the replacement cost in the amount of \$133.00.
- 5). With respect to the shed door I accept the Tenant's testimony that this was normal wear and tear and I dismiss the Landlord's claim for the shed door.

- 6). The Carpet in the laundry room has not been purchased yet so the loss is not proven until the item is paid for therefore; I dismiss the Landlord's claim for \$1,047.14 with leave to reapply when the loss is prove by a paid receipt. I accept the Landlord and the Witness testimony that the carpets were stained with dog urine and feces.
- 7). With respect to the rec room carpet I accept the Landlord's prove of loss, but the carpet was 13 years old and close to the end of its economic life so I award the Landlord 25% of the loss of \$1,306.17 in the amount of \$326.54. I accept the Landlord and the Witness testimony that the carpets were stained with dog urine and feces.
- 8). For the carpet removal, yard work and clean up I accept the Landlord's evidence and testimony and award the Landlord \$990.00.
- 9). As the Tenant did not return the keys I award the Landlord the cost of changing the locks in the amount of \$182.52.
- 10). With respect to the Landlord's claims for mail costs and hearing presentation material costs, these items are not eligible as they are not part of the tenancy; therefore these items are dismissed without leave to reapply.
- 11). The floor trim for \$11.19 and the heat vents for \$41.00 is normal wear and tear and these items are dismissed without leave to reply.
- 12). The auto gas charges are a normal cost of managing a rental unit therefore I dismiss the gas claims as not part of the Tenant's responsibility. I dismiss the Landlord's claim for \$91.03 for auto gas.
- 13). The Landlord's claim for replacement blinds is not supported by a paid receipt therefore the loss is not proven. I dismiss the blind claim of \$200.00 with leave to reapply.

I accept the Landlord testimony that these damages and losses were caused by the Tenant and the costs were reasonable amounts to make repairs to the unit. I award the Landlord a total of \$2,272.06 for damages and losses.

As the Landlord has been partially successful in this matter, the Landlord is also entitled to recover from the Tenant the \$100.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) and s. 72 of the Act to keep the Tenant's security and pet deposits in partial payment of the damages. The Landlord will receive a monetary order for the balance owing as following:

	Damages to the unit	\$2,272.06
	Recover filing fee	\$ 100.00
	Subtotal:	\$2,372.06
Less:	Security Deposit	\$ 640.00
	Pet deposit	\$ 635.00
	Subtotal:	\$ 1,275.00
	Balance Owing	\$ 1,097.06

### Conclusion

A Monetary Order in the amount of \$1,097.06 has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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 30, 2013

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Residential Tenancy Branch