



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDC, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another. The landlord testified that he sent the tenant a copy of his dispute resolution hearing package by registered mail on August 28, 2013. The tenant confirmed that she received a copy of the landlord's dispute resolution hearing package sent by registered mail. I am satisfied that the landlord served this package to the tenant and his written evidence package in accordance with the *Act*.

Although the tenant sent the Residential Tenancy Branch (RTB) a copy of her written evidence, a six-page handwritten submission, the tenant testified that she did not send a copy of this evidence to the landlord. I advised the parties that I could not consider the tenant's written evidence submission, as she had not served it to the landlord.

### Issues(s) to be Decided

Is the landlord entitled to a monetary award for losses arising out of this tenancy? Is the landlord entitled to recover the filing fee for this application from the tenant?

### Background and Evidence

This periodic tenancy began in June 2009. The landlord testified that monthly rent was set at \$750.00 by the end of this tenancy. Although the tenant paid a security deposit to the landlord, the landlord gave undisputed sworn testimony that one of the previous decisions of an Arbitrator appointed under the *Act* enabled the landlord to retain the security deposit for this tenancy. The landlord testified that the tenancy ended when the

tenant was evicted on November 30, 2011, pursuant to a 2 day Order of Possession issued by the Residential Tenancy Branch (the RTB).

The landlord's current application for a monetary award of \$1,620.00 was to obtain recovery of losses he incurred as a result of having to obtain a Writ of Possession from the Supreme Court of B.C. and to retain a court appointed bailiff to secure possession of this rental unit. The landlord entered into written evidence copies of:

- a November 15, 2011 Order of Possession issued by the RTB;
- a November 17, 2011 Affidavit filed with the Supreme Court of B.C.;
- the November 29, 2011 Writ of Possession issued by the Supreme Court of B.C.;
- Writ of Possession information submitted to the court appointed bailiffs; and
- invoices showing the actual costs incurred by the landlord in securing the above documents.

The tenant testified that she was "illegally evicted" and that the court bailiffs never issued her a Writ of Possession or a copy of the Order of Possession. She said that she plans to continue to pursue her concerns about how her tenancy ended. I advised the tenant that the only issue duly before me at this hearing was the landlord's application to recover the costs he was claiming for retaining the court appointed bailiff and to recover the \$120.00 fee he paid to Court Services to obtain the Writ of Possession for this tenancy.

The tenant initially testified that the invoices the landlord provided to her did not total the \$1,620.00, he was seeking. I asked the tenant to explain her allegation as all three of the landlord's claimed receipts are included on the same page of the landlord's written evidence. She provided no explanation in this regard. Her only comment was that she planned "to fight" this matter as she should never have been evicted. After reiterating that the only matter before me was the landlord's current claim for compensation, I noted that the tenant would have to submit her own application for dispute resolution if she was seeking her own monetary award for damages or losses she incurred as a result of this tenancy and she has not already pursued such a remedy. Other than her assurance that she would fight any decision I issued, the tenant provided little comprehensible sworn testimony at this hearing.

### Analysis

Based on a balance of probabilities, I find that the landlord has provided adequate written evidence to demonstrate his entitlement to a monetary award for losses he has incurred as a result of the measures he had to take to enforce the Order of Possession issued to him by the RTB. I find that these costs of \$120.00 applied by Court Services

to obtain the Writ of Possession and of a total of \$1,500.00 charged by the court appointed bailiffs were directly attributable to the tenant's refusal to end her tenancy in accordance with the *Act*. I find that the landlord is entitled to recover the above costs from the tenant. Since the landlord was successful in his application, I allow the landlord to also recover his \$50.00 filing fee from the tenant.

### Conclusion

I issue a monetary Order in the landlord's favour under the following terms, which allows the landlord to recover losses arising out of this tenancy and the filing fee for this application:

<b>Item</b>	<b>Amount</b>
Court Services Fee of November 29, 2011	\$120.00
Deposit on Writ of Possession to Court Bailiffs - November 29, 2011	1,000.00
Remainder of Court Bailiff's Fee – November 30, 2011	500.00
Recovery of Filing Fee for this Application	50.00
<b>Total Monetary Order</b>	<b>\$1,670.00</b>

The landlord is provided with these Orders in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: October 07, 2013

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Residential Tenancy Branch