



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, MNSD, FF

### Introduction

This hearing addressed a claim by the tenant for a monetary order. Both parties participated in the conference call hearing.

### Issue to be Decided

Is the tenant entitled to a monetary order as claimed?

### Background and Evidence

The parties agreed that the tenancy began on May 1, 2012 at which time the tenant paid a \$300.00 security deposit and that it ended on March 28, 2013. They further agreed that at the end of the tenancy, the tenant gave the landlord his forwarding address in writing and that the landlord returned \$150.00 of the security deposit to the tenant.

The tenant seeks an order compelling the landlord to return the \$150.00 of the security deposit that he wrongfully withheld. The landlord argued that it cost him approximately \$1,000.00 to clean the rental unit and pay for hydro consumed during the tenancy and suggested that he was generous in returning any part of the security deposit.

The tenant seeks to recover one half of the rent paid throughout the tenancy, stating that the landlord did not provide a stove and that there was an excessive amount of mould in the unit throughout the tenancy. The tenant theorized that there was a leak somewhere in the unit and testified that there was excessive moisture in several areas.

The landlord testified that there was no stove in the unit at the beginning and that when the tenant requested a stove, he offered to provide a small stove for him. The landlord testified that the tenant reported a leak during the tenancy, but the landlord hired a contractor to inspect the premises and no leak was discovered. The landlord theorized

that the tenant allowed an excessive amount of humidity to build up in the rental unit, thereby causing the mould growth.

### Analysis

Section 38(1) of the Act provides that within 15 days of the later of the day the tenancy ends and the day the landlord receives the tenant's forwarding address in writing, the landlord must either return the security deposit in full or file an application with the Residential Tenancy Branch to retain the deposit. Section 38(6) provides that if the landlord does not comply with section 38(1), the landlord must pay the tenant double the amount of the security deposit. Although the tenant did not apply for double the security deposit, Residential Tenancy Policy Guideline #17 provides that when the landlord has failed to comply with section 38(6), the Arbitrator must order double the return of the security deposit regardless of whether the tenant has applied for double. I therefore find that the landlord is liable for \$450.00 (double the \$300.00 deposit and subtracting the \$150.00 which has been returned) and I order the landlord to pay the tenant this sum.

In order to succeed in his claim for the return of half the rent paid during the term of the tenancy, the tenant must prove that he suffered a loss as a result of the landlord's breach of the Act or tenancy agreement. I accept that the tenant did not have a stove in the unit, but he acknowledged that when he entered into the agreement there was not a stove and as there is no written tenancy agreement indicating that the landlord was required to provide a stove, I find that the landlord had no obligation to provide the stove.

I accept that there was mould in the rental unit, but due to the high humidity of our climate, mould is a common problem in most homes in the lower mainland and it is the responsibility of residents to effectively and continually clean in order to keep mould growth under control. There are circumstances under which mould growth might be exacerbated through a landlord's neglect, such as if there were a leak in the unit, but the tenant has failed to prove that there was such a leak as he provided no evidence to corroborate his theory that there was a leak. I find it more likely than not that the rental unit simply had inadequate ventilation and that as a result, the tenant had to be vigilant about addressing mould concerns and ventilating the suite. I am not persuaded that the mould occurred as a result of the landlord's action or inaction and accordingly I dismiss the claim for the return of half the rent paid.

As the tenant has been only partially successful in his claim, I find that he should recover one half of the filing fee paid to bring his application and I award him \$50.00.

Conclusion

I grant the tenant a monetary order under section 67 for \$500.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order 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: November 29, 2013

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Residential Tenancy Branch

