



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, MND, SS, FF

### Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for alleged damage to the rental unit, for an order of possession for the rental unit due to alleged cause, an order for substituted service of documents other than by the methods permitted under the legislation, and for recovery of the filing fee.

The landlord appeared; the tenant did not appear.

The landlord applied for authority to serve the tenant in a manner other than by the methods permitted under the legislation. The landlord submitted that he first delivered his application for dispute resolution package and Notice of Hearing letter to the tenant at her work, leaving the documents with the receptionist. The landlord said that the tenant has refused to give her forwarding address to the landlord.

The landlord further testified that he subsequently delivered his application for dispute resolution, Notice of Hearing letter and additional evidence to the tenant personally on November 4, 2013, in the parking lot of the tenant's place of work. Therefore it was no longer necessary to consider the landlord's request for an order for substituted service of the hearing documents.

I find the tenant was served notice of this hearing in a manner complying with section 89 of the Residential Tenancy Act (the "Act") by leaving the documents with the tenant and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present his evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

*Preliminary matter*-The landlord applied for an order of possession for the rental unit; however the tenancy has ended as the tenant vacated the rental unit pursuant to an order of possession for the rental unit previously granted to the landlord. I have therefore excluded this request of the landlord from further consideration and the hearing proceeded on the landlord's request for monetary compensation.

### Issue(s) to be Decided

Is the landlord entitled to an order for monetary compensation and to recover the filing fee?

### Background and Evidence

The landlord stated that the tenancy began on January 1, 2013, and that the tenant vacated the rental unit pursuant to an order of possession for the rental unit, although the landlord was uncertain of the exact date.

The landlord's monetary claim is \$506.31, comprised of landfill fees of \$40.80, repairs and clean-up of \$400, carpet cleaning machine rental of \$39.20, hardware replacement for \$22.81, and costs for copies for \$3.50.

The landlord's relevant documentary evidence included photographs of the rental unit depicting the state of the rental unit at the end of the tenancy, receipts for delivery to the landfill, a log of time used to clean and repair the rental unit, a receipt for a carpet cleaning machine rental, a receipt for cabinet hardware, several pages of a tenancy agreement, and a condition inspection report.

The landlord testified that the tenant had damaged the rental unit, such that it required structural repairs, that the tenant failed to leave the rental unit clean, such that he was required to perform cleaning and carpet cleaning, and that the tenant left many items of personal property and garbage, such that he was required to incur costs in removing the property and garbage to the landfill.

The landlord stated that he had to replace hardware for the cabinets, due to the damage by the tenant, although he did not request replacement for all the missing hardware.

The landlord said that he was experienced in replacing drywall and making the repairs himself and that a charge of \$20 per hour was a fair and reasonable amount.

### Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act, which falls in sections 7 and 67, or tenancy agreement, the claiming party, the landlord in this case, has to prove, with a balance of probabilities, four different elements:

**First**, proof that the damage or loss exists, **second**, that the damage or loss occurred due to the actions or neglect of the respondent in violation of the Act or agreement, **third**, verification of the actual loss or damage claimed and **fourth**, proof that the claimant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails.

In light of the tenant's failure to appear to provide a rebuttal to the landlord's evidence, despite being duly served, I accept the landlord's undisputed evidence.

Section 37 of the *Act* requires a tenant who is vacating a rental unit to leave the unit reasonably clean, and undamaged except for reasonable wear and tear.

As such, the tenant is required to remove all belongings including garbage and to clean the rental unit.

I find the landlord submitted sufficient oral and documentary evidence that the tenant failed to properly and reasonably clean the rental unit and that she damaged the rental unit beyond reasonable wear and tear. As such I find it was necessary for the landlord to clean and repair the rental unit, to remove her property and belongings, to shampoo the carpet and to replace the hardware. I find the landlord's request for his time in cleaning and repairing to be reasonable.

I therefore approve the landlord's monetary claim in the amount of \$502.81 and award him recovery of his filing fee of \$50, for a total monetary award of \$552.81.

I have excluded the landlord's request for copies of \$3.50 as these are not costs enumerated as recoverable under the Act.

### Conclusion

The landlord's application for monetary compensation is granted and he has been awarded monetary compensation in the amount of \$552.81.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act in the amount of \$552.81, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

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* and is being mailed to both the applicant and the respondent.

Dated: November 14, 2013

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Residential Tenancy Branch

