



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

OPC, MNDC, MNR, MNSD, FF

### **Introduction**

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession; a monetary Order for money owed or compensation for damage or loss; a monetary Order for unpaid rent; to keep all or part of the security deposit; and to recover the fee for filing this Application for Dispute Resolution. At the outset of the hearing the Landlord withdrew the application for an Order of Possession, as the rental unit has been vacated.

The Landlord stated that on January 30, 2014 the Application for Dispute Resolution and the Notice of Hearing were sent to the Tenant at the rental unit, via registered mail. She stated that these documents were returned by Canada Post with a notation that the rental unit was vacant.

The Landlord stated that on February 19, 2014 the amended Application for Dispute Resolution, the Notice of Hearing, and evidence the Landlord wishes to rely upon as evidence were sent to the Tenant at the service address on the Application for Dispute Resolution, via registered mail. The Landlord submitted Canada Post documentation that shows the mail was delivered to the Tenant on February 21, 2014.

### **Issue(s) to be Decided**

Is the Landlord entitled to compensation for unpaid rent/loss of revenue; to compensation for damage to the rental unit; and to retain all or part of the security deposit?

### **Background and Evidence**

The Landlord stated that this tenancy began on April 01, 2013; that the Tenant agreed to pay monthly rent of \$1,000.00 by the first day of each month; and that the Tenant paid a security deposit of \$500.00. A copy of a tenancy agreement was submitted in evidence that confirms this information, and which shows that this is a fixed term tenancy, the fixed term of which ends on March 31, 2014.

The Landlord stated that a condition inspection report was completed at the beginning and the end of this tenancy, a copy of which was submitted in evidence. The Landlord stated that the Landlord offered, via email, to inspect the rental unit on February 01, 2014 or February 02, 2014 but the Tenant was not available at either date/time. She stated that the parties agreed, via email, to meet on February 03, 2014; that the Tenant did not attend the scheduled meeting; and that the condition inspection report was completed in the absence of the Tenant.

The Landlord stated that on January 14, 2014 the Landlord posted a One Month Notice to End Tenancy on the door of the rental unit, which required the Tenant to vacate the rental unit on February 28, 2014. The Landlord stated that on January 18, 2014 the Landlord posted a second One Month Notice to End Tenancy on the door of the rental unit, which also required the Tenant to vacate the rental unit on February 28, 2014.

The Landlord stated that on January 29, 2014 the Tenant sent her an email in which she informed the Landlord that she would be vacating the rental unit on the 31<sup>st</sup> of an undisclosed month. The Landlord stated that she believes the Tenant was cleaning the rental unit on February 01, 2014 and February 02, 2014. She stated that when she arrived at the unit on February 03, 2014 she found the unit vacant and the keys were inside the rental unit.

The Landlord is seeking compensation, in the amount of \$137.34, to replace blinds in the rental unit. The Landlord stated that the blinds in the rental unit were in good condition at the start of the tenancy and that five sets of blinds were damaged during the tenancy. The Landlord submitted digital images of the damaged blinds and a receipt to corroborate that the Landlord paid \$137.34 to purchase new blinds.

The Landlord is seeking compensation, in the amount of \$325.00, for time spent replacing the blinds and cleaning the rental unit. The Landlord stated that she spent approximately 11 hours cleaning the rental unit and her husband spent approximately 2 hours installing the blinds. The Landlord stated that she had to clean walls, floors; cupboards, the bathroom, and windows. The Landlord submitted digital images that show the rental unit required additional cleaning.

The Landlord is seeking compensation, in the amount of \$40.00, for time spent cleaning the oven in the rental unit. The Landlord stated that she spent approximately 2 hours cleaning the oven. The Landlord submitted a photograph that shows the oven required additional cleaning.

The Landlord is seeking compensation, in the amount of \$60.00, for time spent cleaning the carpet in the rental unit. The Landlord stated that she spent approximately 2 hours cleaning the carpet with her own steam cleaner. The Landlord submitted digital images that show the carpets needed cleaning.

The Landlord is seeking compensation, in the amount of \$50.00, in compensation for damage to the laminate flooring. The Landlord submitted a digital image that shows a large scratch on the floor, which the Landlord stated was not present at the start of the tenancy. The Landlord stated that the Landlord does not intend to replace the floor at this time as it is only 8 years old, however the Landlord is seeking compensation for the decreased life expectancy of the floor as a result of the scratch.

The Landlord is seeking compensation, in the amount of \$50.00, in compensation for damage to the kitchen linoleum. The Landlord stated that there were yellow stains on the floor that were not present at the start of the tenancy. The condition inspection reports submitted in evidence corroborate this testimony. The Landlord stated that the Landlord does not intend to replace the floor at this time as it is only 8 years old, however the Landlord is seeking compensation for the decreased life expectancy of the floor as a result of the stain.

### Analysis

Section 44(1)(a) of the *Residential Tenancy Act (Act)* stipulates that a tenancy ends if the tenant or landlord gives notice to end the tenancy in accordance with section 45, 46, 47, 48, 49, 49.1, and 50 of the *Act*.

On the basis of the undisputed evidence, I find that the Landlord served the Tenant with a One Month Notice to End Tenancy, served pursuant to section 47 of the *Act*, which declared the tenancy was ending on February 28, 2014. I find that this Notice served to end this tenancy on February 28, 2014, pursuant to section 44(1)(a) of the *Act*.

On the basis of the undisputed evidence, I find that the Tenant sent the Landlord an email on January 29, 2014, in which Tenant informed the Landlord that she was vacating the rental unit on the 31<sup>st</sup> of an undisclosed month. Section 45 of the *Act* stipulates that a tenant may end a periodic tenancy by providing the landlord with written notice to end the tenancy on a date that is not earlier than one month after the date the Landlord received the notice and is the day before the date that rent is due. As this was a fixed term tenancy and not a periodic tenancy, the Tenant did not have the right to end this tenancy in accordance with section 45 of the *Act* until after the end of the fixed term of the tenancy agreement, which was March 31, 2014.

Section 44(1)(b) of the *Act* stipulates that a tenancy ends if the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit on the date specified as the end of the tenancy. As the fixed term of this tenancy had not expired, I find that the tenancy did not end pursuant to section 44(1)(b) of the *Act*.

Section 44(1)(c) of the *Act* stipulates that a tenancy ends if the landlord and the tenant agree in writing to end the tenancy. As there is no evidence that the parties agreed in writing to end the tenancy, I find that the tenancy did not end pursuant to section 44(1)(c) of the *Act*.

Section 44(1)(d) of the *Act* stipulates that a tenancy ends if the tenant vacates or abandons the rental unit. On the basis of the undisputed evidence I find that the rental unit was abandoned by March 03, 2014 and that the tenancy had ended by that date, pursuant to section 44(1)(d) of the *Act*.

Section 44(1)(e) of the *Act* stipulates that a tenancy ends if the tenancy agreement is frustrated. As there is no evidence that this tenancy agreement was frustrated, I find that the tenancy did not end pursuant to section 44(1)(e) of the *Act*.

Section 44(1)(f) of the *Act* stipulates that a tenancy ends if the director orders that it has ended. As there is no evidence that the director ordered an end to this tenancy, I find that the tenancy did not end pursuant to section 44(1)(f) of the *Act*.

Section 26 of the *Act* stipulates that a tenant must pay rent when rent is due. As the Tenant did not have the right to end this tenancy by February 01, 2014 and the Notice to End Tenancy served by the Landlord did not end the tenancy until February 28, 2014, I find that the Tenant was obligated to pay rent of \$1,000.00 when it was due on February 01, 2014. As the Landlord has only claimed compensation for unpaid rent in the amount of \$535.65, I find that the Landlord is entitled to the full amount of this claim. I am unable to award compensation for all the rent due, as the Landlord has not made a claim for the full amount.

On the basis of the undisputed evidence, I find that the Tenant failed to comply with section 37(2) of the *Act* when she failed to repair blinds that were damaged during the tenancy. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the *Act*, which in these circumstances is \$137.34 for purchasing new blinds. I also find that the Landlord is entitled to compensation for the 2 hours he spent installing the blinds. I find that \$25.00 per hour is reasonable compensation for this labour and that the Landlord is therefore entitled to \$50.00 for installing the blinds.

On the basis of the undisputed evidence, I find that the Tenant failed to comply with section 37(2) of the *Act* when she failed to leave the rental unit in reasonably clean condition at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for the 11 hours she spent cleaning the rental unit and 2 hours she spent cleaning the oven. I find that \$25.00 per hour is reasonable compensation for cleaning and that the Landlord is therefore entitled to \$275.00 for cleaning the unit and \$40.00 for cleaning the oven. I am unable to award compensation at an hourly rate of \$25.00 for cleaning the oven, as the Landlord has only claimed \$40.00 for the two hours she spent cleaning the oven.

On the basis of the undisputed evidence, I find that the Tenant failed to comply with section 37(2) of the *Act* when she failed leave the carpet reasonably clean at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for the 2 hours she spent cleaning the carpet. I find that \$30.00 per hour is reasonable compensation for cleaning a carpet when specialized equipment owned by the Landlord is used. I therefore find that the Landlord is entitled to \$60.00 for cleaning the carpet.

On the basis of the undisputed evidence, I find that the Tenant failed to comply with section 37(2) of the *Act* when she failed repair the laminate floor that was scratched during the tenancy and the linoleum floor that was stained during the tenancy. Although the Landlord has elected not to repair or replace the flooring, I find that the Landlord is entitled to compensation for reduced value of the flooring as a result of the damage. I find that the claim of \$100.00 is reasonable, given that it would likely cost considerably more to repair the damage, and I award compensation in this amount.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

### Conclusion

The Landlord has established a monetary claim, in the amount of \$1,257.99, which is comprised of \$535.65 in unpaid rent, \$662.34 in damages, and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to retain the Tenant's security deposit of \$500.00 in partial satisfaction of this monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$757.99. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims 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: March 18, 2014

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Residential Tenancy Branch

