



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## Decision

### **Introduction**

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for the \$33.00 cost for a new garage remote and \$10.50 for the cost of mail. The landlord requests that these amounts be retained from the tenant's security deposit in satisfaction of the claim.

The hearing was also convened to hear a cross application filed by the tenant seeking the return of their security deposit and a monetary order for damages.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The participants had an opportunity to submit documentary evidence prior to this hearing, and the evidence has been reviewed. The parties were also permitted to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the affirmed testimony and relevant evidence that was properly served.

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

Is the landlord entitled to monetary compensation for the garage door remote?

Is the tenant entitled to monetary compensation in damages and the return of the security deposit?

### **Background and Evidence**

The landlord testified that the tenancy began in January 2014 and ended on March 31, 2014. The rent was \$1,800.00 plus 2/3 of utilities and a security deposit of \$900.00 was paid.

The landlord testified that at the end of March 2014, the tenant vacated the rental unit without surrendering the garage door remote, which cost \$33.00 to replace. The landlord is claiming compensation for this amount.

The tenant disputed the landlord's claim for the opener and denied the landlord's testimony that garage door remote was never returned.

The tenant testified that they had to pay \$50.00 to hook up the TV cable and the tenant feels that the landlord should compensate the tenant for the extra cost of running new cables. According to the tenant, the landlord had verbally agreed to reimburse the tenant for this extra cost, but failed to do so.

The landlord disputed the tenant's claim and stated that the landlord had never committed to paying for the cable. The landlord pointed out that the tenancy agreement confirms that no cable services are included in the tenant's rent.

The tenant stated that, during the tenancy, the landlord was engaged in renovation work for several months and used the tenant's electricity without compensating the tenant for the additional cost. The tenant stated that the extra usage is reflected in the high hydro bills and submitted copies of invoices into evidence.

The landlord acknowledged that they had built a small garden shed for the tenant's benefit. The landlord pointed out that the higher hydro costs are normal for the season.

The tenant is also claiming compensation of \$900.00 for 2 missing bikes that had been left in the garage of the property and are now missing.

The landlord disputed this claim as well, and stated that the landlord did not remove the bicycles. The landlord pointed out that the bikes could have been taken by anyone.

The tenant is claiming reimbursement for the \$147.74 cost of repairs they had to make to the washing machine.

The landlord stated that the tenant damaged the machine and called the landlord to inform him that they would repair it. The landlord's position is that this expense was the tenant's responsibility to pay, not the landlord's.

### **Analysis: Monetary Claims**

An applicant's right to claim damages from another party is dealt with under section 7 of the Act which states that if a landlord or tenant does not comply with the Act, the regulations or the tenancy agreement, the non-complying party must compensate the other for damage or loss that results. Section 67 of the Act grants a dispute Resolution Officer the authority to determine the amount and to order payment under these circumstances.

I find it important to note that in a claim for damage or loss under the Act, the party making the claim bears the burden of proof and the evidence furnished by the applicant must satisfy each component of the test below:

#### **Test For Damage and Loss Claims**

1. Proof that the damage or loss exists,
2. Proof that this damage or loss happened solely because of the actions or neglect of the Respondent in violation of the Act or agreement,
3. Verification of the actual amount required to compensate for the claimed loss or to rectify the damage, and
4. Proof that the claimant followed section 7(2) of the Act by taking reasonable steps to mitigate or minimize the loss or damage.

In regard to the landlord's claim for the cost of the garage door remote, I find that there is not sufficient proof of the cost, nor of the loss. I find that the claim does not satisfy element 2 of the test for damages and therefore must be dismissed.

In regard to the tenant's monetary claims, I find that the tenant has not submitted sufficient proof to support the claims for the cable costs, the additional hydro expenses, nor the loss of the bikes.

In regard to the cable costs, I find that the tenancy agreement does not offer the tenant any cable services included as part of the rent and therefore costs associated with cable services must be borne by the tenant. I find that the tenant's claim of \$50.00 for cable hook-up must be dismissed.

In regard to the tenant's allegation that the hydro costs were increased by the landlord's use of tools in the renovation work, I find that the copies of the hydro bills submitted by the tenant function to show the costs but this does not constitute proof that the landlord is responsible for the higher charges for hydro. Due to insufficient proof, I find that the tenant's claim for \$450.00 in extra hydro expenses must be dismissed.

In regard to the tenant's claim for replacement cost of the missing bikes, I accept the tenant's testimony that these items did go missing. However, the tenant has not submitted sufficient proof that the landlord was responsible for removing the bikes. For this reason, I find that the tenant's claim for the bikes must be dismissed.

With respect to the repairs to the washing machine, I find that maintenance and repairs of appliances are the responsibility of the landlord under the Act. Accordingly, I find that the tenant is entitled to be reimbursed the \$147.74 cost of the repair.

In addition to the above I find that the tenant is entitled to a refund of the \$900.00 security deposit being held by the landlord, pursuant to section 38 of the Act.

Based on the above, I find that the tenant is entitled to total compensation of \$1,097.74 comprised of \$900.00 refund of the security deposit, \$147.74 reimbursement of the repairs to the washer and the \$50.00 cost of the application.

I hereby grant the tenant a monetary order in the amount of \$1,097.74. This order must be served on the landlord and may be enforced through an application to BC Small Claims Court if not paid.

The landlord's application is dismissed in its entirety without leave to reapply.

### **Conclusion**

The tenant is partially successful in the cross application, and is granted monetary order. The remainder of tenant's application is dismissed. The landlord's application is dismissed in its entirety without leave.

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: August 06, 2014

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Residential Tenancy Branch

