



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Crestmark Holdings Corporation  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR, MNDC, FF, O, RP, RR

### Introduction

There are applications filed by both parties. The landlord seeks a monetary claim for unpaid rent or utilities, for money owed or compensation for damage or loss and recovery of the filing fee. The tenant also seeks a monetary claim for money owed or compensation for damage or loss, an order for repairs to the unit, site or property, to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the notice of hearing package and the submitted documentary evidence submitted by the other party, I find that both parties have been properly served.

At the outset the tenant stated that he wished to withdraw his application. As such no further action is required. The tenant is at liberty to reapply, but leave to reapply is not an extension of any applicable extension period.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order?

### Background and Evidence

Both parties confirmed that there was a signed tenancy agreement, but neither party has submitted a copy of such for the hearing.

The landlord seeks a monetary claim of \$1,222.87 which consists of \$722.87 for the cost of a new dryer and \$500.00 for compensation as the tenant has had the unauthorized use of a parking stall.

The landlord states that they were notified on April 12, 2014 by the tenant that the dryer was not drying clothes properly. The tenant confirmed this stating that he was having issues with the dryer. The landlord states that the tenant was mis-using the dryer which caused a burnout of the appliance. The landlord states that the tenant over-used the dryer continuously in an effort to show that the dryer was not functioning properly. The tenant disputes this stating that on May 19, 2014, the Vancouver Fire Department attended in response to a dryer fire. The tenant states that he was informed by the Vancouver Fire Officer that dryer fires were quite common and showed the tenant a wad of lint which had built up causing an obstruction. This obstruction caused a heat back up which in turn caused a fire. The landlord disputes this and states that prior to this he had 3 different technicians look at the dryer and that all reported that it was functioning properly.

The landlord also states that the tenant was making an unauthorized usage of parking number #10 when he is assigned to #12 for the last 5 months from April until August. The landlord states that this is a larger parking stall and that based upon his experience the landlord would dictate that an additional \$100.00 is required for the difference in parking stalls. The tenant states that when he was shown the rental unit during move-in the tenant was shown parking unit #10. The tenant also states that he has an email acknowledgement from the Administrative Offices of the landlord from [info@c21res.com](mailto:info@c21res.com) titled "Parking space #10. The tenant states that he emailed the offices with a question, "What space do you have us down for?" in which the Administrative staff responded, "Beside #9." The landlord disputes this stating that just because the answer was "Beside #9" it does not mean it is parking stall #10. When asked what else is next to #9, the landlord, E.W. stated that #8 parking stall was next to it. The landlord, E.W. stated in his direct testimony that the parking is assigned by the landlord based upon their own internal practices. Both parties agreed that the landlord's one page excerpt from the signed tenancy agreement accurately reflect the parking allocation. It states, "Parking for 1 Vehicle." The tenancy agreement shows no determination of the assignment of parking stall spaces. The landlord stated in his direct testimony that he can assign any parking spot to any tenant that he wishes and that there is "no assigned" parking. When questioned, the landlord, E.W. clarified that there was no assigned parking for any of the tenants.

### Analysis

I accept the evidence submitted by both parties and find on a balance of probabilities that the landlord has failed to establish a monetary claim for the new dryer replacement cost and the charge for unauthorized use of parking. The onus or burden of proof lies with the party who is making the claim. In this case it is the landlord's burden. When

one party provides evidence of the facts in one way and the other party provides an equally probable explanation of the facts, without other evidence to support their claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails. The landlord's monetary claim is in dispute by the tenant and the landlord has failed to provide sufficient evidence to satisfy me that the tenant was negligent in causing the fire which resulted in the replacement of a new dryer. The tenant stated he was told directly by a fire official that the fire was caused by a lint build up. The landlord stated that he had 3 separate technicians inspect the dryer prior to the fire, but has failed to provide any supporting evidence of this as he stated, "I am a professional and am much too busy". As for the charges for parking, I found the landlord's evidence contradictory as he states that he can assign parking to any tenant anywhere, but that there is no assigned parking for any tenants as it is on a first come first serve basis. The landlord has not refuted the email provided by the tenant which states that the tenant's parking stall is "beside #9". I also note that the landlord clarified that only #8 and #10 are beside #9. The landlord's entire monetary claim is dismissed for lack of sufficient evidence.

### Conclusion

The landlord's application is dismissed.

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 14, 2014

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Residential Tenancy Branch

