



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes:

**OPR, MNR, MNDC, FF**

### Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of possession for unpaid rent, Rent, a monetary Order for unpaid rent and damage or loss under the Act and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that they served the tenant with Notice of the hearing and evidence via registered mail sent to the rental unit address. On August 18, 2014 the tenant signed, accepting the registered mail. The landlord provided a copy of the Canada Post registered mail tracking information, with the tenant's signature indicated; as evidence of service.

These documents are deemed to have been served on the day the tenant signed accepting them; in accordance with section 89 of the Act; however the tenant did not appear at the hearing.

### Preliminary Matters

The tenant vacated the rental unit on August 30, 2014; a written forwarding address was not provided until the landlord received an application for dispute resolution delivered to the landlord on September 4, 2014. The landlord used the service address on that application to serve the tenant with a thirty-two page evidence submission. The evidence was sent via registered mail on September 4, 2014; the landlord provided the Canada Post tracking number for that mail.

As the tenant did not provide a forwarding address until September 4, 2014 I find that service of the landlord's evidence is deemed served effective on the 5<sup>th</sup> day after mailing; September 9, 2014. The tenant did not attend the hearing to dispute the claim.

The tenancy has ended; an Order of possession is not required.

### Issue(s) to be Decided

Is the landlord entitled to a monetary Order for unpaid rent and loss of rent revenue?

### Background and Evidence

The tenancy commenced on January 21, 2009; rent at the end of the tenancy was \$750.00, due on the 1<sup>st</sup> day of each month. A security deposit in the sum of \$320.00 was paid. A copy of the signed tenancy agreement was supplied as evidence.

The landlord has claimed:

- \$400.00 July 2014 rent;
- \$750.00 August 2014 rent;
- \$500.00 pick-up and hauling of items left in the unit; and
- \$150.00 suite cleaning (reduced from \$300.00.)

The tenant did not pay \$400.00 of July 2014 rent owed. On July 28, 2014 the landlord issued a 10 day Notice to end tenancy for unpaid rent; the effective date of the Notice was August 6, 2014. The tenant did not pay August 2014 rent and vacated at the end of that month. The landlord is claiming unpaid rent from July 1 to August 6, 2014 and loss of rent revenue to August 30, 2014.

The tenant sent the landlord a text message indicating she would not return to the unit. The landlord provided photographs of the rental unit, taken after the tenant vacated. A number of pieces of furniture were left; a couch, bed frame, chest of drawers; the landlord said the items were not worth more than \$100.00 and had to haul away. The tenant also left garbage outside; as shown in photographs.

The landlord supplied an invoice issued on September 2, 2014 in the sum of \$500.00 for the cost of cleaning the items up that were left behind and the hauling fee. The items were heavy; resulting in the charge imposed. The landlord paid this by cash.

The landlord supplied a September 3, 2014 receipt issued in the sum of \$150.00 as a record of payment for cleaning of the suite. The landlord estimated it would cost \$300.00; but the cleaning was completed for \$150.00. Photographs supplied showed the unit at the end of the tenancy and the need for cleaning.

### Analysis

When making a claim for damages under a tenancy agreement or the Act, the party making the allegations has the burden of proving their claim. Proving a claim in damages requires that it be established that the damage or loss occurred, that the damage or loss was a result of a breach of the tenancy agreement or Act, verification of the actual loss or damage claimed and proof that the party took all reasonable measures to mitigate their loss.

In the absence of evidence to the contrary, I find that the tenant has not paid rent for July through to August 6, 2014, as claimed. The tenant is required to pay rent, pursuant to section 26(1) of the *Act*,

As the tenant did not vacate the rental unit by August 6, 201, I find that the tenant is obligated to pay rent, on a per diem basis, for any days the tenant remained in possession of the rental unit after August 6, 2014 to August 30, 2014.

Therefore the landlord is entitled to compensation in the sum of \$1,150.00 for unpaid rent and rent revenue.

Based on verification of the sums claimed I find that the landlord is entitled to the cost of hauling away items and cleaning as claimed; \$500.00 and \$150.00, respectively. The photographs showed the number of items left behind by the tenant and the need for cleaning. The unit was not left in a reasonably clean state and the tenant failed to remove all belongings at the end of the tenancy as required by the Act.

I find that the landlord's application has merit and, pursuant to section 72 of the Act that the landlord is entitled to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Pursuant to section 72 of the Act, I find that the landlord is entitled to retain the security deposit in partial satisfaction of the claim.

Based on these determinations I grant the landlord a monetary Order for the balance of \$1,480.00. 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.

### Conclusion

The landlord is entitled to an Order of possession and monetary Order for unpaid rent and damage and loss under the Act.

The landlord may retain the security deposit.

The landlord is entitled to filing fee costs.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: September 16, 2014

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Residential Tenancy Branch

