



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding VLR Management DBA: Vancouver Luxury Realty  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDC, FF

### Introduction

This is an application filed by the tenant for a monetary order for money owed or compensation for damage or loss 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 tenant's initial documentary evidence package, I am satisfied that both parties have been properly served.

Both parties submitted late evidence. The tenant's late documentary package was a duplicate of the original, but included a written statement which the tenant states is an amendment. The tenant provided no details of any action or remedy for this amendment. The tenant did not properly file an amendment, but added a statement with his original documentary evidence. The landlord submitted late evidence, but provided no explanation. I find that the tenant has failed to properly file an amended application and as such, the original application will proceed. The tenant was advised that if he wished to he may file a separate application for the additional amendment as it does not relate to the monetary claim. The landlord's late documentary evidence is excluded as the landlord has failed to properly serve the late evidence in accordance with the Act and has provided no explanation.

The landlord has submitted a request to adjourn the hearing as the primary agent, M.S. is away in Europe. The landlord's agent did not provide any details other than that, M.S. was given a trip for his birthday and would be away. The landlord's agent also stated that she was prepared to go ahead with the hearing. As such, the landlord's request for an adjournment is denied.

The landlord requests that the tenant's application be dismissed as they should properly be making their application with the owner. The landlord cites articles in Canadian Law

and its Civil Code as an exemption exists to an Agent of the Principal from liability concerning contracts entered into on behalf of the Principal. In reviewing the signed tenancy agreement, it states that the named respondent is acting as an agent of the owner's agent. Section 1 under definitions of the Residential Tenancy Act states,

**"landlord"**, in relation to a rental unit, includes any of the following:

(a) the owner of the rental unit, **the owner's agent or another person who, on behalf of the landlord,**

**(i) permits occupation of the rental unit under a tenancy agreement, or**

(ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;

(b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);

(c) a person, other than a tenant occupying the rental unit, who

(i) is entitled to possession of the rental unit, and

(ii) exercises any of the rights of a landlord under a tenancy agreement or this Act in relation to the rental unit;

**(d) a former landlord, when the context requires this;**

As such, I find that the landlord's request to dismiss the application is denied. For the purposes of this application, I find that the named respondent is the landlord agent and that the application has been properly filed.

#### Issue(s) to be Decided

Is the tenant entitled to a monetary order?

#### Background and Evidence

This tenancy began on July 15, 2013 on a fixed term tenancy for 2 years ending on July 14, 2015 as shown by the submitted copy of the signed tenancy agreement. The

monthly was \$4,200.00 payable on the 1<sup>st</sup> of each month and a security deposit of \$2,100.00 was paid.

The tenant seeks a monetary claim of \$7,406.53 as compensation for failing to properly end the tenancy. The claim consists of \$2,315.25 for a 2 year lease for storage, 2,400.00 for a 2 year lease on parking, \$541.28 for the cost of a packing company and \$2,100.00 for breaking the lease.

During the hearing, the landlord's agent, H.C. conceded the tenant's claim for the \$541.28 packing claim. As such, the tenant has been successful in this portion of the claim and is entitled to \$541.28 for packing.

The tenants state that on July 12, 2013, three days prior to taking possession of the rental unit on July 15, 2013 the landlord's agent notified them that the owner has refused to rent the unit and not provide any keys or possession of the unit on July 15, 2013. It was clarified with the landlord's agent that the owner had sold the rental property. The tenant states that S.C. moved in with him as he was able to stay in his rental unit without moving and that the tenant, S.C. had to rent storage as she had to vacate her rental unit. The tenant states that because of the breach by the landlord the tenant had to rent storage to hold S.C.'s personal belongs. The landlord disputes the tenant's claim stating that the amount claimed is unreasonable. The tenant states that they are still trying to locate a rental unit with the same area and storage, but that have been unsuccessful to date. The tenant also states that the breached tenancy agreement had 2 parking spaces and at his current location there is only one. The tenant states that he is seeking compensation for the next 2 years for the duration of the signed tenancy agreement. The tenant also seeks an amount equal to \$2,100.00 as the landlord breached the tenancy agreement and that had the tenant done this he would be liable for the liquidated damages clause. The tenant states that the landlord is not contractually obligated, but feels he is entitled to this as it would be fair.

### Analysis

I accept the evidence provided by both parties and although both parties have confirmed that the landlord breached the fixed term tenancy, I find that the tenant has failed to establish a claim as applied for regarding the storage and parking costs. The tenant's claim of compensation cannot establish an ongoing loss for two years. As of the date of this hearing, the tenants reside at the tenant, S.S.'s original rental unit with S.C. sharing it for approximately 15 months. Although the tenant states that they have been unable to find new equivalent accomations, the tenant has failed to provide sufficient evidence of this. The tenant seeks compensation for the entire 2 year period

had original tenancy agreement proceeded. The tenants are not out of pocket for any additional expenses as his existing rent is lower than what the intended tenancy would have been other than the packing costs which the landlord has conceded. As such, the tenant's monetary claim has failed, however, the tenants have established that an inconvenience took place as the landlord breached the fixed term tenancy. The landlord has conceded the tenant's cost of packing of \$541.28 which the tenant later had to unpack and stay in his original rental unit. I also note that the tenant's storage costs do not start until August 25, 2013 as listed on the invoice printed on March 25, 2014 for the period August 25 to September 24, 2013. I find that the tenant is entitled to a nominal award for the inconvenience of the landlord breaching the signed tenancy agreement for \$142.53 which is equal to one months storage and parking charges.

The tenant has established a total monetary claim for \$683.81. The tenants are also entitled to recovery of \$50.00 of the filing fee for being partially successful. The tenants are granted a monetary order for \$683.81. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The tenant is granted a monetary order for \$683.81.

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: October 07, 2014

---

Residential Tenancy Branch

