



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, MNSD, FF

### Introduction

This matter dealt with an application by the Landlord for a Monetary Order for compensation for loss or damage under the Act, regulations or tenancy agreement, to retain the Tenant's security deposit and to recover the filing fee for this proceeding.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on November 3, 2014. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

### Issues(s) to be Decided

1. Is there a loss or damage and is the Landlord entitled to compensation?
2. Is the Landlord entitled to keep the Tenant's security deposit?

### Background and Evidence

This tenancy started on May 1, 2014 as a month to month tenancy. Rent was \$665.00 per month payable on the last day of the month. The Tenant paid a security deposit of \$332.50 and a pet deposit of \$100.00 in advance of the tenancy. The Tenant said she gave the Landlord Notice on September 28, 2014 that she was moving out on October 31, 2014. There were no condition inspection reports completed on move in or move out. The Tenant gave the Landlord her forwarding address on October 30, 2014.

The Landlord said that the Tenant had the unit rented but she was only living in the unit part of the time. The Landlord said the Tenant lived with her grandparents most of the time after May, 2014 when the Tenant's husband moved out. The Landlord continued to say that the Tenant complained that there was a mouse problem in the unit on August 30, 2014. Following this the Landlord inspected the property and found the rental unit to have debris and garbage throughout the unit. The Landlord submitted photographs of the unit from the start of September, 2014. The Landlord said the

photographs show the amount of debris and garbage in the unit. As a result the Landlord told the Tenant that the unit had to be cleaned and emptied so that the extermination company could come in and treat for the mouse issue. The Landlord continued to say that the Tenant did not clean the unit completely and so she had to clean it for showings and to get the pest control worker into the unit. The Landlord submitted pest control estimates for just the pest control work and to clean the unit. The Landlord also submitted a paid receipt for \$194.25 for the pest control work.

The Landlord said that she has made this application to recover her cleaning costs and to pay for the pest control as she believes the debris and garbage attracted the mice into the rental unit. The Landlord said she is claiming \$173.69 for carpet cleaning, traps, deodorizer and for cleaning the upper rental unit carpet. The Landlord said the upper unit was cleaned as a result of the mice in the lower unit getting into the upper unit. As well the Landlord is claiming \$150.00 for her labor on October 6, 2014 (6 hours @ \$25.00/ hour) and \$195.00 for lunches she bought her family and friends that helped her cleaning the unit. The Landlord said she told the Tenant that she had lined up 4 people to clean the unit and the Tenant had agreed to the Landlord doing part of the cleanup. As well the Landlord said she is claiming \$100.00 for the Tenant bringing hamsters into the rental unit without the Landlord's permission. The Landlord said her total claim is \$812.94 plus the \$50.00 filing fee.

The Tenant's agent said the rental unit had a recurring mouse problem and it made the unit uninhabitable. As well the Tenant's agent said the Landlord did a number of things to make it difficult for the Tenant to clean the unit and to deal with the debris and garbage. The Landlord said no cardboard was to be used as it attracted mice and the Landlord entered the unit without proper notice on many occasions. The Tenant's agent submitted an information sheet from Health Canada about pest management and the Tenant's agent said the Landlord had not managed the pest problem in over 20 years. The Tenant submitted email and text statements from previous tenants acknowledging the mouse issue in the rental unit. The Landlord said that all buildings have mice and she had done pest control in the past but it hasn't been a problem until now in the rental unit. The Landlord said she called in the pest control soon after she got the complaint from the Tenant on August 30, 2014. The pest control inspection and estimate are dated September 9, 2014.

The Tenant's agent continued to say that the Tenant has health issues that do not allow her to deal with things as most people would and that her income is low so it is difficult for the Tenant to make things work. The Tenant's agent said the mouse problem is not the Tenant's problem but is the Landlord's responsibility therefore the Tenant is not responsible for the pest control costs.

Further the Tenant's agent called the Tenant's grandmother as a witness as she was the person who did most of the cleaning. Witness C.H. said that she and the Tenant did some of the cleaning and the Landlord and her workers did some of the cleaning as well. The Witness said the unit was clean and empty by October 5, 2014 and the Landlord started showing the unit on October 6, 2014. The Witness C.H. said the rental

unit was a mess because when the husband moved out in May, 2014 he ransacked the rental unit.

The Tenant's agent said the Landlord did some cleaning and removal of debris and garbage, but this would not have been an issue if the Landlord had done maintenance in the building to prevent the mice from coming in.

The Tenant's agent said in closing that the Landlord had neglected the building for years and this resulted in a mice infestation. The Tenant's agent said this is not the Tenant's problem but the Landlord's responsibility. As well the Tenant's agent said the Tenant and her grandmother worked with the Landlord to get the unit clean and as the Tenant had until October 31, 2014 to clean and vacate the unit the Landlord should not be successful in her claims.

The Landlord said in closing the pest report says it was not a long term mouse problem but a recent problem. The Landlord said the unit had to be cleaned immediately as it was an emergency situation for this unit and the rental unit upstairs. The Landlord said she did what she had to for the pest control worker and so that she was able to show the unit to potential tenants.

### Analysis

There was much contradictory testimony given in the hearing for this situation. The Tenant's agent put forward that the mouse infestation was a result of the Landlord not maintaining the building and not taking preventative measures to keep the mice out of the building. The Landlord said that the mice were attracted to the rental unit because of the debris and garbage in the unit. Both parties provided photographic evidence and witness statements to support their positions. From the evidence it is clear the Tenant left the unit in an unclean condition from May, 2014 to August 2014, which I find, contributed to the mouse issue. Further the Tenant's agents evidence indicates there are some basic maintenance items that can be done like filling holes in the walls and putting weather stripping on doors to minimize the possibility of mice gaining access to the unit. After reviewing the testimony and the evidence of both parties I find that both the Landlord and the Tenant are equally responsible for the mouse infestation. The Tenant left garbage and debris in the unit which attracted the mice and the Landlord did not do any preventative maintenance that would help to keep the mice out of the rental unit. Consequently, I find that the cost of the pest control in the amount of \$194.25 will be shared equally between the Tenant and the Landlord. The Tenant's share is \$97.13 and I award this amount to the Landlord.

Further the parties both agree that the Landlord did some of the cleaning and hauled the majority of the Tenant's belongings and debris away; therefore the Landlord should be compensated for time and expenses. I accept the Landlord's bill for the landfill for \$37.75 and I award this amount for costs to haul debris to the landfill. As well both parties agreed that the Landlord brought 4 workers to help clean and clear the unit

between the dates of September 18 and September 24, 2014. The Landlord said she purchased lunches and dinners for the workers as compensation for their time in the amount of \$195.00. I accept the Landlord testimony that the \$195.00 spent on lunches and dinners which represents wages for these workers. I award the Landlord \$195.00 for hired help to clean and remove debris and belongings of the Tenant.

Further I do not accept the Landlords claims for mouse traps, deodorizer and for carpet cleaning costs for the upper rental unit as these are all costs associated with general maintenance of the rental units. These claims are dismissed without leave to reapply.

With respect to the Landlords claim for wages of 6 hours of cleaning at \$25.00/hour for a total of \$150.00 for cleaning the stove and frig on October 6, 2014; I find it is not clear that the cleaning was required as the Tenant say the unit was clean and empty on October 5, 2014 for a showing on October 6, 2014. The burden of proving a claim lies with the applicant and when it is just the applicant's word against that of the respondent's then that burden of proof is not met. There is no corroborative evidence to prove the stove and frig were not cleaned on October 5, 2014 as the Witness C.H. testified; therefore I dismiss the Landlord's claim for 6 hours of labor to clean the stove and frig in the unit on October 6, 2014.

With respect to the Landlord's request for \$100.00 for the Tenant having unauthorized hamsters in the rental unit. It is the Landlord's responsibility to collect a pet deposit from the Tenant when pets enter the rental unit. If a Landlord does not exercise their rights and collect the pet deposit it is not collectable after the tenancy ends. I dismiss the Landlord's request for \$100.00 for unauthorized hamsters in the rental unit.

As the Landlord has been partially successful in this matter, the Landlord is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) and s. 72 of the Act to keep the Tenant's security deposit in payment of the cleanup costs. The Tenant will receive a monetary order for the balance owing as following:

Landlord's awards:

Pest Control Costs	\$ 97.13
Labour costs	\$ 195.00
Landfill costs	\$ 37.75
Recover filing fee	\$ 50.00

Subtotal: \$ 379.88

Less:	Security Deposit	\$ 332.50
	Pet Deposit	\$ 100.00
	Subtotal:	\$ 432.50

Balance Owing to Tenant \$ 52.62

I order the Landlord to return \$52.62 of the Tenant's security deposit forth with.

Conclusion

A Monetary Order in the amount of \$52.62 has been issued to the Tenant. A copy of the Order must be served on the Landlord: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: December 09, 2014

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Residential Tenancy Branch

