



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

**MNDC, MNSD, FF**

### **Introduction**

This was a cross-application hearing.

On July 27, 2014 the tenant applied requesting return of the security deposit and the last month's rent that had been paid at the start of the tenancy and to recover the filing fee costs. One of the 3 co-tenants made the application.

On January 10, 2015 the landlord made an on-line application requesting compensation for damage or loss, damage, unpaid rent, substitute service and to recover the filing fee from the tenants.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing.

### **Preliminary Matters**

The landlord confirmed receipt of the tenant's application on August 5, 2014. The landlord was out of the country but a friend who signed accepting the registered mail, informed the landlord of the mail. The landlord received the tenant's evidence and hearing documents.

The landlord did not submit any written response to the tenant's application until he made his on-line application on January 10, 2015. The landlord named all 3 co-tenants, but served only the single tenant applicant.

The tenant confirmed receipt of the landlord's evidence on January 20, 2015. The mail did not include a copy of the landlord's application.

The landlord said he did not have addresses for the other 2 co-tenants; some mail was sent to the applicant tenant's address that was meant for the other 2 co-tenants.

In the absence of service to the 2 co-tenants who did not apply as part of the tenant application, I found that service had not been completed and that the landlord's application could proceed against those co-tenants.

As the landlord failed to apply for dispute resolution within a time period that would allow compliance with section 3.1 of the Rules of Procedure, I determined that the application would not be heard as a cross to the tenant's application. The landlord was informed that his late application failed to allow the tenant at least fourteen days to respond. Further, the tenant was not given a copy of the landlord's application. The intention was to reschedule the landlord's hearing; however the parties went on to reach a mutually settled agreement.

### Mutually Settled Agreement

The parties agreed to the following settlement:

- The landlord will return the \$590.00 security deposit to the tenant;
- The landlord will retain the \$1,180.00 that was paid, contrary to the legislation, at the start of the tenancy for the last month's rent; and
- That all matters related to this co-tenancy are fully and finally settled and that no further applications for dispute resolution will be considered by and co-tenant or the landlord.

### ***Opportunity to settle dispute***

**63** (1) *The director may assist the parties, or offer the parties an opportunity, to settle their dispute.*

(2) *If the parties settle their dispute during dispute resolution proceedings, the director may record the settlement in the form of a decision or an order.*

The mutually settled agreement was fully discussed with the parties. The landlord said he was not happy with agreeing but that the dispute was bothersome and he wished to end the dispute by coming to an agreement. The tenant indicated his desire to settle and his satisfaction with the agreement made. Both parties confirmed, several times, that the agreement was satisfactory.

I explained that the mutually settled agreement would be enforced through Orders.

Therefore, based on the mutually settled agreement I find the tenant is entitled to compensation in the sum of \$590.00 and I grant the tenant a monetary Order in that sum. In the event that the landlord does not comply with this Order, it may be served on the landlord, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

I Order that the landlord retain the \$1,180.00 that was paid by the tenants at the start of the tenancy, as payment for loss of May 2014 rent revenue. The landlord accepted this payment at the start of the tenancy, to be used for last month's rent owed. The landlord understands that payments of this sort do not comply with the legislation.

### Conclusion

The parties reached a mutually settled agreement.

Orders and findings were made, as set out above.

This decision and mutually settled agreement is final and binding 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: January 21, 2015

---

Residential Tenancy Branch

