



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding COLDWELL BANKER PRESTIGE REALTY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD

### Introduction

This hearing was convened in relation to the landlord's application for authority to retain the tenant's security deposit in compensation for damages caused to the rental unit.

The tenant and the landlord's agent appeared. The agent confirmed that he had full authority to act on behalf of the landlord.

The landlord did not submit any documentary evidence in support of its application.

### Preliminary Issue – Adjournment Request

At the beginning of the hearing I informed the agent that I did not have any evidence from the landlord. The tenant confirmed that he was only in receipt of the landlord's application for dispute resolution and the notice of dispute resolution hearing.

The agent indicated that he had told the owner of the rental unit that evidence was required, but the owner did not provide the agent with anything. The agent requested an adjournment.

The landlord's application was filed in early January 2015.

*Residential Tenancy Branch, Rules of Procedure*, rule 6.4 sets out the criteria for granting an adjournment:

Without restricting the authority of the arbitrator to consider other factors, the arbitrator must apply the following criteria when considering a party's request for an adjournment of the dispute resolution proceeding:

- (a) the oral or written submissions of the parties;
- (b) whether the purpose for which the adjournment is sought will contribute to the objectives set out in Rule 1;

- (c) whether the adjournment is required to provide a fair opportunity for a party to be heard, including whether a party had sufficient notice of the dispute resolution proceeding;
- (d) the degree to which the need for the adjournment arises out the intentional actions or neglect of the party seeking the adjournment; and
- (e) the possible prejudice to each party.

I informed the agent at the hearing that I would not adjourn the hearing and that the hearing would commence as scheduled. Although I considered all the criteria in 6.4, I declined to adjourn the hearing as the landlord had ample notice of the hearing, had ample opportunity to file its evidence, and it would unfairly prejudice the tenant to reschedule the hearing.

As the hearing would proceed on testimony alone, the agent asked the tenant if he would propose a settlement. The tenant and agent negotiated. A settlement amount was agreed to by the tenant on the condition that the agent personally would recover the \$50.00 filing fee from the award.

### Analysis

Pursuant to section 63 of the Act, an arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

During this hearing, the parties reached an agreement to settle their dispute under the following final and binding terms:

1. The landlord agreed to withdraw its application.
2. The tenant agreed that the landlord could retain \$550.00 from the tenant's security deposit on the following basis:
  - a. \$500.00 in compensation for damage caused to the rental unit; and
  - b. \$50.00 in compensation for the filing fee for this application.
3. The landlord agreed to return the balance of the tenant's security deposit in the amount of \$700.00.

The parties agreed that these particulars comprise the full and final settlement of all aspects of their disputes for both parties.

Conclusion

The landlord's application is withdrawn.

The monetary order is to be used if the landlord does not pay \$700.00 to the tenant in accordance with their agreement. The tenant is provided with this order in the above terms and the tenant should serve the landlord with this order so that it may enforce it in the event that the landlord does not pay the amount as set out in their agreement. Should the landlord fail to comply with this order, this order may be filed in the Small Claims Division of the Provincial Court and enforced as orders of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under subsection 9.1(1) of the Act.

Dated: April 10, 2015

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Residential Tenancy Branch

