



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding HOMELIFE GLENAYRE REALTY CHILLIWACK LTD., PROPERTY  
MANAGEMENT DIVISION  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: MNDC MNSD OLC FF

### **Introduction:**

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act (the Act) for orders as follows:

- a) A monetary order pursuant to Sections 44, 45, 46 and 67 for rental loss due to breach of a fixed term lease and damages to the property;
- b) An Order to retain the security deposit pursuant to Section 38; and
- c) To recover the filing fee for this application.

### **Preliminary Issue of Service:**

The tenant said the landlord served the Application for herself and her friend to her place of employment; she submits this is illegal service to her and also to her friend who is no longer with her. The tenant agreed the envelope with the documents were handed to her personally at her place of employment. I find this service on her is legal according to section 89(1) (a) of the Act. I find the evidence is that her boyfriend was not legally served although the tenant said he knew about the proceeding. I advised her that any monetary order would be in both names and if she paid it, she could claim a portion from him. She said she thought he would contribute his portion.

### **Issue(s) to be Decided:**

Has the landlord proved on the balance of probabilities that the tenant breached a fixed term lease and they incurred rental loss due to the breach? Has the landlord also proved the tenants did damage to the property, that it was beyond reasonable wear and tear and the amount it cost to fix the damage? If so, what is the amount of the compensation and is the landlord entitled to recover filing fees also?

### **Background and Evidence:**

Both parties attended the hearing and were given opportunity to be heard, to present evidence and to make submissions. It is undisputed that the tenancy commenced in February 26, 2014 for a fixed term ending on February 28, 2015. It is undisputed that rent was \$1800 a month and a security deposit of \$900 was paid in February 2014 and

is held in trust by the landlord. Both parties agree that the tenant broke the lease by giving notice and leaving in early February 2015. The tenant agrees that she was advised they would be responsible for February 2015 rent and she does not dispute this portion of the landlord's claim.

The landlord claims as follows:

\$1800 rent for February due to breach of the lease

\$400 for cleaning

\$94.50 for carpet cleaning.

The tenant disputes the cleaning invoice. The invoice is from a Professional company which the landlord says they use frequently. It details 10 hours at \$40 an hour on February 5<sup>th</sup> and 6<sup>th</sup>. Photographs were provided as evidence of the cleaning to be done. The landlord also scheduled Opportunities to do a Condition Inspection Report but the tenant said she could not do it when offered. She objected to the fact that she had to return keys early in February and was not given an opportunity to clean. The landlord said the tenant said they had finished cleaning but had a mattress to remove from the garage so the landlord scheduled cleaning after observing the condition of the unit. A Condition Inspection Report at move-out was done by the landlord and it indicates a significant amount of cleaning was required; it appears there were two kitchens with appliances to be cleaned. An invoice is also provided for carpet cleaning.

The landlord said the owners are not going to re-rent at this time and have asked a realtor to sell it. The tenant said they had a valuable tree or piece of wood art on the porch weighing about 400 lb which they had agreed to give to a neighbour but when the neighbour went to the premises, a realtor would not allow them to take it. The landlord's representative, a Property Manager, said she would contact their real estate division immediately and arrange for the neighbour to be permitted to remove the item which is the property of the tenants.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

### **Analysis**

Monetary Order:

The onus is on the applicant to prove on a balance of probabilities their claim. I find the landlord satisfied the onus. The tenant does not dispute that they breached the fixed term lease and are responsible for rent for February 2015 of \$1800.

Section 7 of the Act provides that if a landlord or tenant does not comply with the Act or their tenancy agreement, the non compliant party must compensate the other for loss or

damage that result. I find that the Act, the Residential Policy Guideline 1 and the tenancy agreement require a tenant to maintain the unit and leave it in a clean condition and to shampoo the carpets when vacating. Although the tenant disputed the cost of cleaning, I find the weight of the evidence is that there was a significant amount of cleaning to be done. The tenant alleged she would have come back to do it in February but then said she could not remember if she told the landlord that they had finished cleaning; I find the landlord's evidence credible that she only hired the professionals when the tenant said they had finished the cleaning. I find the landlord's credibility is supported by the fact that the tenant could not return to even do a condition inspection report although given more than one opportunity. The photographs and condition inspection report show dirty appliances, bathrooms, and carpets. I do not find \$400 an unreasonable cost to clean the unit for 10 hours or \$94.50 to clean the carpet. As this was not done by the tenant according to the weight of the evidence, I find the tenant liable to compensate the landlord for the costs of having professionals do it.

### **Conclusion:**

I find the landlord entitled to a Monetary Order as calculated below and to retain the security deposit to offset the amount owing. I find them also entitled to recover the filing fee for this application. I note the tenants are jointly and severally liable for this monetary order.

Calculation of Monetary Award:

|  |         |
|--|---------|
| February rent                            | 1800.00 |
| Cleaning cost                            | 400.00  |
| Carpet cleaning                          | 94.50   |
| Filing fee                               | 50.00   |
| Less security deposit (no interest 2014) | -900.00 |
| Total Monetary Order to Landlord         | 1444.50 |

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: April 02, 2015

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Residential Tenancy Branch

