



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MND

### Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the Residential Tenancy Act ("Act"). The landlord applied for authority to keep all or part of the tenant's security deposit and a monetary order for further monetary compensation for alleged damage to the rental unit.

The landlord and tenant attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing, neither party raised any issues regarding service of the application. Each party confirmed not providing any documentary evidence.

Thereafter both parties were provided the opportunity to present their evidence orally and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

### Issue(s) to be Decided

Is the landlord entitled to retain the tenant's security deposit and further monetary compensation?

### Background and Evidence

As there was no written tenancy agreement submitted into evidence, the landlord testified that the tenancy began on September 1, 2011, and ended in October 2013, that monthly rent was \$750.00 and the tenant paid a security deposit of \$375.00 at the beginning of the tenancy.

The tenant submitted that the tenancy began August 15, 2011 and that it ended in October 2014 and confirmed that he paid a security deposit of \$375.00. The landlord then confirmed the tenancy ended in October 2014.

The landlord's monetary claim is \$1000.00. As the landlord failed to provide a breakdown of her monetary claim, she explained that the claim involved alleged kitchen damage caused by the tenant. The landlord submitted further that there was damage to the door knobs, tiles, fascia, and drawers.

The landlord estimated that the cost of the repairs would have been \$1000.00, if she had done the repairs; however, the landlord confirmed selling the rental unit prior to making any repairs.

*Tenant's response-*

The tenant submitted that he did not cause any damage, in that the structure of the drawers caused them to catch on the tiles when trying to open them. The tenant submitted further that the drawers never opened properly, and that as the rental unit was in an old house, there was wear and tear already in place.

The tenant requested a return of his security deposit.

Analysis

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that occurs as a result of their actions or neglect, so long as the applicant verifies the loss, as required under section 67. Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss.

Section 37 of the Act requires a tenant who is vacating a rental unit to leave the unit reasonably clean, and undamaged except for reasonable wear and tear.

In the case before me, I find the landlord submitted insufficient evidence to support her claim that the tenant caused damage to the rental unit. For instance, the landlord failed to provide a move-in or move-out condition inspection report, and there was no evidence to suggest that she had prepared one. Condition inspection reports are the obligation of a landlord to prepare under sections 23 and 35 of the Act in order to show the condition of the rental unit at the beginning and end of the tenancy. The landlord likewise failed to submit photographs or any other independent evidence of the state of the rental unit at the beginning or end of the tenancy.

I find the landlord also failed to show that she suffered any loss due to any alleged actions of the tenant as she did not make any repairs, having sold the rental unit since the end of the tenancy.

Due to the above, I find the landlord has submitted insufficient evidence to support her monetary claim and I therefore dismiss her application, without leave to reapply.

As I have dismissed the landlord's application claiming against the tenant's security deposit, I order the landlord to return the tenant's security deposit in full, forthwith.

As I have ordered that the landlord return the tenant his security deposit, I grant the tenant a final, legally binding monetary order pursuant to section 62 of the Act for the amount of \$375.00, which is enclosed with the tenant's Decision.

Should the landlord fail to pay the tenant this amount without delay, the monetary order may be served upon the landlord and may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The landlord is advised that costs of such enforcement are recoverable from the landlord.

#### Conclusion

The landlord's application for monetary compensation is dismissed.

I have ordered the landlord to return the tenant's security deposit and granted the tenant a monetary order for \$375.00.

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: May 25, 2015

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Residential Tenancy Branch

