



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, MND, FF

### 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 a monetary order for money owed or compensation for damage or loss and damage to the rental unit and for recovery of the filing fee paid for this application.

The landlord attended the telephone conference call hearing; the tenant did not attend.

The landlord submitted that he served the tenant with his application for dispute resolution and notice of hearing by registered mail on or about January 30, 2015. The landlord supplied testimony of the tracking number of the registered mail.

Based upon the submissions of the landlord, I find the tenant was served notice of this hearing and the landlord's application in a manner complying with section 89(1) of the Act and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present his evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, 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

Do I have authority to decide the matters and issues listed in the landlord's application?

If so, is the landlord entitled to a monetary order for damages and other costs against the tenant and to recovery of the filing fee paid for this application?

### Background and Evidence

The landlord's application listed a monetary claim of \$2485.40, comprised of \$75.00 for returned rent cheques, \$152.25 for damage to a garage door, \$1155.40 for a new stove, \$49.31 for damage to the refrigerator, \$755.40 for contractor costs, \$168.00 for cleaning, and \$129.95 for costs from a home improvement store.

The landlord's evidence shows that these parties were in a previous dispute resolution hearing on the landlord's application for monetary compensation for damages on November 6, 2014, and a Decision by another Arbitrator was issued on November 7, 2014. Although the landlord's previous application and evidence was not before me, the landlord confirmed that his claim in that application was for monetary compensation from the tenant for damage to the garage door, the stove, and the refrigerator and for contractor costs, cleaning, and a home improvement store costs, all as listed in his present application, with the exception of the returned cheque charges.

The Decision of November 7, 2014, states that the landlord's original claim was \$1000.00 for the above damage and that he sought to increase the claim by his submission of receipt evidence. The other Arbitrator cited section 2.5 of the Rules referring to amendments of applications and section 59(2) of the Act referring to setting out the full particulars of a claim in an application in dismissing the amounts for damages above the original \$1000.00, without leave to reapply.

The tenant submitted that the other Arbitrator informed him at the hearing that he could reapply for the excess of the claim not considered at the November 6, 2014, hearing, which was the intent of the present application.

In their Decision in the previous dispute resolution, the Arbitrator made several key findings, which will be referenced herein.

The other Arbitrator found that the landlord, through his evidence, had proven damages by the tenant in excess of the \$1000.00 claimed by the landlord, and as the landlord applied for \$1000.00, the other Arbitrator awarded him this amount for damage to the garage door, the stove, and the refrigerator and for contractor costs, cleaning, and a home improvement store costs. As mentioned, even though the other Arbitrator found proof of damages beyond \$1000.00, the monetary award was limited to \$1000.00 pursuant to the application amount.

As to the landlord's claim for \$75.00, the landlord submitted that during the tenancy, three of the tenant's monthly rent cheques were returned to him, due to non-sufficient funds. The landlord submitted further that he is entitled to a fee of \$25.00 each as stated in the addendum to the written tenancy agreement. The landlord submitted a copy of the addendum.

### Analysis

As I explained to the landlord in the hearing, I find that his claim for damages has previously been decided upon by another Arbitrator in the November 7, 2014 Decision, and I cannot re-decide that issue as I am bound by this earlier Decision, under the legal principle of *res judicata*. I therefore dismiss the landlord's claim for damages to the garage door, the stove, and the refrigerator and for contractor costs, cleaning, and a home improvement store costs, without leave to reapply.

As to the landlord's claim for \$75.00 for three returned monthly rent cheques, section 7(1)(d) of the Residential Tenancy Regulation allows a landlord to charge an administration fee up to \$25.00 for each cheque returned by a financial institution, if allowed by the tenancy agreement.

In this case, I find the landlord submitted sufficient, undisputed evidence to show that he is entitled to a monetary award of \$75.00 for three returned rent cheques during the course of the tenancy.

As the landlord has had at least partial success with his application, I grant him reimbursement of his filing fee of \$50.00.

Due to the above, I find the landlord is entitled to a total monetary award of \$125.00, comprised of administration fees of \$75.00 for three returned cheques and \$50.00 for recovery of the filing fee paid for this application.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the amount of \$125.00, which is enclosed with the landlord's Decision.

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

Conclusion

The landlord's application for damages is dismissed.

The landlord's application for administration fees of \$75.00 and recovery of the filing fee paid for the application is granted.

The landlord has been granted a monetary order of \$125.00.

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: August 12, 2015

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Residential Tenancy Branch

