



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CITY VIEW COURT/ROYAL PROVIDENCE MANAGEMENT  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes

For the landlord – MND, MNSD, FF

For the tenant - MNSD

### Introduction

This hearing was convened by way of conference call in response to both parties' applications for Dispute Resolution. A hearing was held on September 01, 2015 and the matter was adjourned to allow the tenant to submit evidence to the Residential Tenancy Branch and the landlord. The matter was reconvened today. The tenant applied for a Monetary Order to recover the security and pet deposit. The landlord applied for a Monetary Order for damage to the unit, site or property; for an Order permitting the landlord to keep all or part of the tenant's security and pet deposit; and to recover the filing fee from the tenant for the cost of this application.

The reconvened hearing went ahead as scheduled the landlord dialed into the conference call and was ready to proceed. The line remained open for 10 minutes; however, no one for the tenant dialed into the call. Based on the above I find that the tenant has failed to present the merits of their application and the application is dismissed without leave to reapply.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*; served by registered mail on February 08, 2015. Canada Post tracking numbers were provided by the landlord in documentary evidence. The tenant was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. All of the testimony and documentary evidence was carefully considered.

#### Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order for damage to the unit, site or property?
- Is the landlord permitted to keep all or part of the security and pet deposits?

#### Background and Evidence

The landlord testified that this tenancy started on December 15, 2012. This was initially a fixed term tenancy for a year thereafter reverting to a month to month tenancy. Rent for this unit was \$1,150.00 per month. The tenant paid a security deposit of \$575.00 on November 20, 2012 and a pet deposit of \$575.00 on January 31, 2013. The parties attended a move in and move out condition inspection and a report was completed with a copy provided to the tenant. The tenant provided her forwarding address on the move out report on January 27, 2015. The tenancy ended on January 31, 2015.

The landlord testified that the tenant broke the glass in the patio door during the tenancy. The tenant wrote to the landlord and gave permission for the landlord to keep the security deposit to cover the cost for the repair to the patio door. The repair came to \$513.45.

The landlord testified that there was an excessive amount of screw holes in the walls in the unit and an amount of wall decals and adhesive also had to be removed. The tenant had painted the valance above the kitchen cabinets a different colour, this had to be primed and repainted, and the tenant had also replaced the kitchen cabinet doors with

her own. The tenant left the landlord's cabinet doors on the kitchen floor and did not refit them. The painter has written that he had to refit these doors. This damage is documented in the move out report and on the letter provided in evidence from the painter employed by the landlord. Due to this the unit had to be repainted at a cost of \$1,000.00 and the installation of the cabinet doors was a further \$150.00.

The landlord testified that the tenant left the oven dirty. The landlord's cleaners spent some time cleaning the oven and the landlord seeks to recover \$75.00 for this work. The tenant had also removed two light fixtures and replaced them with her own. At the end of the tenancy the landlord had to remount their light fixtures and seek to recover \$40.00 for this work. The tenant had caused chipping to the enamel bathtub. The landlord had to purchase enamel paint to patch this chip and seeks to recover \$20.00 for this work. The tenant caused some damage to the entry closet door. There was a scratch on the door which had to be sanded prior to painting. The landlord seeks to recover \$20.00 for this work. The landlord referred to their documentary evidence showing the breakdown of these additional charges which has been sent to the tenant.

The landlord testified that as the tenant has already given written permission for the landlord to keep the security deposit for damages the landlord seeks an Order permitting them to keep the pet deposit in partial satisfaction of their claim. The landlord also seeks to recover the filing fee of \$50.00.

### Analysis

The tenant did not appear at the hearing to dispute the landlord's claims, despite having been given a notice of the hearing and despite having filed her own application; therefore, as the tenant has failed to attend to present the merits of her application, I have carefully considered the landlord's documentary evidence and sworn testimony before me.

I have applied a test used for damage or loss claims to determine if the claimant has met the burden of proof in this matter:

- Proof that the damage or loss exists;
- Proof that this damage or loss happened solely because of the actions or neglect of the respondent in violation of the *Act* or agreement;
- Verification of the actual amount required to compensate for the claimed loss or to rectify the damage;
- Proof that the claimant followed S. 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage.

In this instance the burden of proof is on the claimant to prove the existence of the damage or loss and that it stemmed directly from a violation of the agreement or contravention of the *Act* on the part of the respondent. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. Finally it must be proven that the claimant did everything possible to address the situation and to mitigate the damage or losses that were incurred.

With this test in mind I am satisfied with the evidence before me that the tenant did cause damage to the patio door and has given the landlord written permission to keep the security deposit to pay for this damage of \$513.45.

I am satisfied from the evidence before me that the suite had to be repainted due to excessive screw holes, a colour change and decals and adhesive left on a wall. The move out report indicates that that the unit had new paint at the start of the tenancy and most rooms required repainting at the end of the tenancy; I therefore find the landlord is entitled to recover the cost for this work as indicated on the invoice of \$1,000.00. Furthermore I find the tenant did not replace the kitchen cabinet doors before the end of the tenancy and these were also replaced by the painter. I am satisfied the landlord is entitled to recover \$150.00 for this work.

With regard to the reminder of the landlord's claim for oven cleaning, chips on the bathtub and damage to the closet door, I am satisfied from the evidence before me that this damage and cleaning is documented on the move out report, although the tenant has disagreed on the report with some of the landlord's comments, the tenant has not appeared at the hearing to provide testimony concerning these issues. I therefore find the landlord is entitled to recover \$75.00 for cleaning the oven, \$20.00 for the bathtub chip and \$20.00 for the scratch on the closet door.

With regard to the landlord's claim to reinstall two light fixtures; the move out report indicates that the landlord could not find these light fixtures so the tenant could reinstall them. I do not find it would therefore be reasonable for the landlord to charge the tenant the cost to reinstall the lights if the lights could not be found by the landlord prior to the end of the tenancy to enable the tenant to reinstall them herself. I therefore dismiss the landlord's claim for \$40.00.

As the landlords' claim has merit I find the landlord is entitled to recover the filing fee of **\$50.00** from the tenant pursuant to s. 72(1) of the *Act*.

I Order the landlord to keep the following amount from the security and pet deposits:

Patio door glass	\$513.45
Painting	\$1,000.00
Cabinet door refitting	\$150.00
Oven cleaning	\$75.00
Bathtub chips	\$20.00
Closet door	\$20.00
Total amount for repairs	\$1,778.45
Security and pet deposits	(\$1,150.00)
Filing fee	\$50.00
<b>Total amount due to the landlord</b>	<b>\$678.45</b>

Conclusion

I HEREBY FIND largely in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$678.45**. The Order must be served on the respondent. Should the respondent fail to comply with the Order, the Order may be enforced through the Provincial (Small Claims) Court of British Columbia as an Order of that Court.

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: December 10, 2015

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Residential Tenancy Branch

