



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Goodrich Realty Inc  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD, MNDC, MNR, MND, FF

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for unpaid rent - Section 67;
2. A Monetary Order for damages to the unit - Section 67;
3. A Monetary Order for compensation - Section 67;
4. An Order to retain the security deposit - Section 38; and
5. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

### Preliminary Matter

It was noted that no evidence package was received by Residential Tenancy Branch (the “RTB”) from the Landlord. The Landlord states that an evidence package consisting of copies of the condition report, invoices and estimates were provided in June 2015 by registered mail to the Tenant and by fax to the RTB. The Landlord does not have any verification that the fax to the RTB was sent and received. The Landlord asks for an adjournment in order to provide the evidence to the RTB.

The Tenant states that the only evidence provided by the Landlord was the condition reports. The Tenant states that no invoices or estimates were provided by the Landlord in the evidence package. The Tenant states that the Landlord is a professional rental

management company and the Landlord's failure to meet the requirements to support its claims and for the dispute process is difficult to accept. The Tenant states that he had to make work arrangements to attend the hearing and does not consent to an adjournment.

Rule 2.5 of the RTB Rules of Procedure requires that where a party intends to rely on documentary evidence to support its claims a party must submit a copy of this evidence to the RTB. Rule 3.18 of the RTB Rules of Procedure provides that where evidence has not been received by the arbitrator before a hearing, the hearing may be adjourned to receive that evidence if a party can show that the evidence was submitted to the Residential Tenancy Branch directly or through a Service BC office within the required time limits. I accept the Tenant's argument that to adjourn would be unfair to the Tenant. I also accept the Tenant's evidence that the Landlord failed to provide any invoices with the evidence package given to the Tenant. Given that the Landlord could not offer anything to verify that the evidence package was faxed to the RTB I find that it did not provide the RTB with a copy of the evidence. As a result I decline to adjourn the matter in order to consider the Landlord's documentary evidence.

#### Issue(s) to be Decided

Is the Tenant's right to return of the security deposit extinguished?

#### Background and Evidence

The following are agreed facts: The tenancy started on March 1, 2014 and ended on June 30, 2015. At the outset of the tenancy the Landlord collected \$587.50 as a security deposit. The Parties mutually conducted a move-in inspection and a report was completed with a copy given to the Tenant. The Parties agreed to conduct a move-out inspection at 1:00 p.m. on June 30, 2015 however the Tenant informed the Landlord that they were not ready for the inspection and the Parties agreed to the Landlord's second offer to conduct a move-out inspection on July 1, 2015 at 5:00 p.m. The Tenant did not attend the second inspection. The Tenant left the unit unclean.

Other than recovery of the filing fee, the Landlord limits its claims to the total amount of the security deposit. The Tenant disputes all claims except the costs to clean the unit, which the Tenant estimates to be \$200.00.

### Analysis

Section 35 of the Act provides that at move-out a landlord and tenant must together inspect the condition of a rental unit. Section 36 of the Act provides that the right of a tenant to the return of a security deposit is extinguished if the landlord has given two opportunities for inspection and the tenant has not participated on either occasion.

Based on the agreed facts I find that the Landlord has substantiated that the Tenant's right to return of the security deposit has been extinguished. The Landlord may retain the full security deposit plus zero interests of **\$587.50**. The Landlord is also entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$637.50**. This entitlement includes the Tenant's agreed upon costs of \$200.00 to clean the unit.

### Conclusion

I Order the Landlord to retain the security deposit plus interest of **\$587.50** in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for **\$50.00**. If necessary, this order may be filed in the Small Claims Court and enforced 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 07, 2015

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Residential Tenancy Branch

