



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OLC, RP, FF

### Introduction

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. An order that the Landlord comply with the Act, Regulations or tenancy agreement by claiming a late fee and NSF fee.
- b. An order to repair or replace the carpet in the living room and staircase.
- c. An order that the landlord recognize the Tenant paid a pet deposit in their records.
- d. An order to repair the dishwasher.
- e. An order to recover the cost of the filing fee?

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the landlord on May 3, 2016. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order that the landlord has breached the Residential Tenancy Act, Regulations or tenancy agreement by demanding a late fee for March and April?
- b. Whether the tenant is entitled to an order that the carpet in the living room and staircase be repaired or replaced?

- c. Whether the tenant is entitled to an order that the landlord recognize the tenant has paid a pet damage deposit?
- d. Whether the tenant is entitled to an order for the repair of the dishwasher?
- e. Whether the tenant is entitled to recover the cost of the filing fee?

### Background and Evidence

The tenancy began on February 1, 2011. The present rent is \$1113 per month payable in advance on the first day of each month. The tenancy agreement indicates the tenant paid a security deposit of \$512.50 and a pet damage deposit of \$512.50 at the start of the tenancy.

### Analysis

The tenant had made arrangements with the landlord to pay the rent by electronic deposit. In late February the tenant made arrangements with the local office of the landlord to pay the rent through a different bank. The rent was taken out for that month on time. However, this change was not communicated to the landlord's central office and they attempted to withdraw the rent a second time. The landlord charged a late fee for that transaction. The tenant subsequently gave the landlord a cheque on April 1, 2016. That rent was not deposited until a couple of days later. The landlord charged a late fee for April.

I determined the landlord is not entitled to charge a late fee or NSF fee for the months of March and April as the rent was not paid late. Further, the tenancy agreement provided for a late fee and NSF fee of a minimum service charge of \$50 each. This is not permitted under the Regulations which limit such a charges to \$25 each provided the tenancy agreement provides for that fee.

### Non-refundable fees charged by landlord

7 (1) A landlord may charge any of the following non-refundable fees:

...

- (d) subject to subsection (2), an administration fee of not more than \$25 for the return of a tenant's cheque by a financial institution or for late payment of rent;
- (2) A landlord must not charge the fee described in paragraph (1) (d) or (e) unless the tenancy agreement provides for that fee.

Application for a Repair Order

The landlord did not dispute the need for a repair order of the carpets and is waiting for approval from Head Office. I ordered that the landlord repair the living room and stair case carpets by June 30, 2016.

The landlord did not dispute the testimony that the tenant paid a pet damage deposit of \$512.50. I determined that as of the date of this hearing the landlord holds a security deposit in the sum of \$512.50 and a pet damage deposit in the sum of \$512.50.

The landlord has repaired the dishwasher and it is working satisfactorily. As a result the tenant withdrew this claim.

Conclusion

In summary I determined the Landlord has no right to charge a late fee or NSF fee for the months of March and April 2016 as the rent was paid on time. I ordered that the landlord repair the carpet in the living room and staircase by June 30, 2016. I further determined the tenant paid a security deposit of \$512.50 and pet damage deposit of \$512.50 at the start of the tenancy. The claim to repair the dishwasher has been withdrawn. **I ordered the landlord(s) to pay to the tenant the sum of \$100 for the cost of the filing fee such sum may be deducted from future rent.**

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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: June 01, 2016

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Residential Tenancy Branch