



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FF, MNR, MND, MNSD & MNDC

### Introduction

The Application for Dispute Resolution filed by the Landlord makes the following claims:

- a. A monetary order in the sum of \$600
- b. 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. The parties acknowledged they had received the documents of the other party.

I find that the Application for Dispute Resolution/Notice of Hearing was served on the Tenants by mailing, by registered mail to where the tenants reside on March 20, 2016.

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to a monetary order and if so how much?
- b. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

### Background and Evidence

The parties entered into a month to month written tenancy agreement that provided that the tenancy would start on June 1, 2015. The tenancy agreement provided that the tenant(s) would pay rent of \$1200 per month payable in advance on the first day of each month. The tenants paid a security deposit of \$600 at the start of the tenancy. The

landlord testified the tenants agreed that they would assist the landlord with yard maintenance and property upkeep. This was one of the major reasons he chose them as tenants.

On February 17, 2016 the Tenants gave the landlord written notice they were vacating the rental unit at the end of February. While the landlord was able to re-rent the premises for March 1, 2016 the landlord testified he was scrambling and was not able to include a rent increase that he would have been able to do if he had been given sufficient notice. The tenants vacated the rental unit at the end of February.

#### Landlord's Application - Analysis

The Residential Tenancy Act provides the tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. The tenant must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant and is liable to compensate the landlord for failure to do so. In some instances the landlord's standards may be higher than what is required by the Act. The tenant is required to maintain the standards set out in the Act. The tenant is not required to make repairs for reasonable wear and tear. The applicant has the burden of proof to establish the claim on the evidence presented at the hearing.

#### Monetary Order and Cost of Filing fee

With respect to each of the landlord's claims I find as follows:

- a. I determined the landlord is entitled to the sum of \$50 for damage to the carpet. The tenants damaged the carpet when their vacuum cleaner picked up a frayed end.
- b. The landlord claimed the sum of \$150 for liquidated damages for insufficient notice and breach of contract. The tenancy agreement does not include a liquidated damage clause that would allow the landlord to claim a certain sum if the tenants failed to give proper notice. The landlord was able to re-rent the rental unit for March 1, 2016 for the same rent as contained in the tenancy agreement with the tenants. The testimony of the landlord that he could have gotten a higher rent is speculative. The reference to CMHC Greater Victoria is insufficient evidence for me to conclude that the short notice prevented the landlord from charging a higher rent. As a result this claim is dismissed.
- c. The landlord claimed the sum of \$400 for breach of an oral contract to share in the upkeep of the property for the months from November to the End of February. The landlord valued this service at \$100 a month. The tenant

disputes this claim saying it was not part of the tenancy agreement. Further it is uncertain as to what work they were to do. It was overgrown when we moved in. Finally the work is reduced during the winter months. The landlord testified the tenants did a reasonable share of the work from June to the end of October. I determined there was an oral agreement the tenants would assist in the upkeep of the property and the tenants. The tenants perform a reasonable amount for the first 5 months of the tenancy. After considering all of the evidence I determined the landlord is entitled to \$150 of this claim.

In summary I determined the landlord has established a monetary claim against the tenant(s) in the sum of \$200 plus the \$50 filing fee (reduced to reflect the partial success of the landlord) for a total of \$250.

#### Security Deposit

I determined the security deposit plus interest totals the sum of \$600. I ordered that the landlord shall retain \$250 from the security deposit. I further ordered that the landlord pay to the Tenants the balance of the security deposit in the sum of \$350.

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

Should the Landlord 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: July 29, 2016

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Residential Tenancy Branch

