



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 0939481 BC LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Code MNR, MND, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for unpaid rent, for damages to the unit and an order to retain the security deposit in partial satisfaction of the claim.

The landlord's agent attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord's agent testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail on June 16, 2016, a Canada post tracking number was provided as evidence of service. The Canada post tracking shows the package was successfully delivered to the tenant on June 23, 2016.

I find that the tenant has been duly served in accordance with the Act.

The landlord's agent appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### Issues to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to monetary compensation for damages?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

### Background and Evidence

The parties entered into a 12 month fixed term tenancy that began on February 18, 2016. Rent in the amount of \$1,950.00 was payable on the first of each month. A security deposit of \$975.00 was paid by the tenant.

The landlord claims as follows:

a.	Loss of rent for May 2016 & NSF fee (\$25.00)	\$1,975.00
b.	Unpaid utilities	\$ 48.09
c.	Clean rental unit	\$ 280.00
d.	Repair blind	\$ 225.24
e.	Painting	\$ 180.00
f.	Boxes, labour and storage cost for tenants belongings	\$ 389.86
g.	Filing fee	\$ 100.00
	<b>Total claimed</b>	<b>\$3,198.19</b>

### Loss of rent for May 2016

The landlord's agent testified that the tenant emailed them on April 13, 2016, stated that they no longer wanted to live in the rental unit. The agent stated that the tenant was informed that they are under a fixed term tenancy agreement and would be responsible for any loss of rent.

The landlord's agent testified that they immediately started to advertise the rental unit and had seven showing and were able to find a new renter commencing June 1, 2016.

The landlord's agent testified that it was at the showing in May 2016, that they discovered the tenant had abandoned the rental unit. The agent stated that the tenant's rent cheque for May 2016 was returned due to insufficient funds.

The landlord's agent testified that they were unable to rent the premises for any portion of May 2016. The landlord seeks to recover loss of rent for May 2016, in the amount of \$1,950.00 and to recover the NSF fee in the amount of \$25.00.

Unpaid utilities

The landlord's agent testified that the tenant failed to pay the electricity bill. The landlord seeks to recover the amount of \$48.09.

Clean rental unit

The landlord's agent testified that the tenant made no attempt to clean the rental unit and everything including the appliances needed to be cleaned. The landlord seeks to recover cleaning costs in the amount of \$280.00. Filed in evidence are photographs supporting their testimony.

Repair blind

The landlord's agent testified that the tenant damaged the blind, which had to be repaired. The landlord seeks to recover the amount of \$225.24. Filed in evidence is a photograph supporting their testimony.

Painting

The landlord's agent testified that the tenant caused damage to the wall by installing a baby gate. The agent stated that the holes had to be filled, sanded and repainted. The agent stated that the children's rooms also had stickers on the walls and when they attempted to remove the stickers the paint peeled off. The landlord seeks to recover the cost of repairing and touchup painting in the amount of \$180.00. Filed in evidence are photographs supporting their testimony.

Boxes, labour and storage cost

The landlord's agent testified that the tenant left a lot of belongings behind and they had to purchase boxes, pay to have the items packed and then store the belongings. The landlord seeks to recover the cost of boxes, labour, and storage in the amount of \$389.86. Filed in evidence are photographs supporting their testimony.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Section 45 of the Act states a tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice and is not earlier than the date specified in the tenancy agreement as the end of the tenancy.

Under section 37 of the Act, the tenant is required to return the rental unit to the landlord reasonably clean and undamaged, except for reasonable wear and tear. Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

In this case, the tenant received the landlord's application for dispute resolution on June 23, 2016. As the landlord's provided the full particular of their claim in their application and the tenant chose not to appear. I find it reasonable to conclude that the tenant is not opposing the landlord's claim.

#### Loss of rent for May 2016

I find the tenant breached the Act, when they ended the tenancy earlier than the fixed term tenancy agreement and section 45 of Act allowed and this caused losses to the landlord. I find the landlord took reasonable steps to mitigate the loss, as they were able to find a new renter for June 1, 2016. Therefore, I find the landlord is entitled to recover loss of rent for May 2016, in the amount of **\$1,950.00**

Further as the tenant's rent cheque for May 2016, was returned for insufficient fund, I find the landlord is entitled to recover the NSF fee. Therefore, I find the landlord is entitled to recover the NSF fee in the amount of **\$25.00**.

Unpaid utilities

I accept the undisputed evidence of the landlord's agent that the tenant failed to pay the utility invoice. I find the tenant breached the Act and this caused losses to the landlord. Therefore, I find the landlord is entitled to recover unpaid utilities in the amount of **\$48.09**.

Clean rental unit

I accept the undisputed evidence of the landlord's agent that the tenant failed to clean the rental unit at the end of the tenancy. This is supported by photographic evidence. I find the tenant breached section 37 of the Act and this caused losses to the landlord. Therefore, I find the landlord is entitled to recover cleaning costs in the amount of **\$280.00**.

Repair blind

I accept the undisputed evidence of the landlord's agent that the tenant caused damage to the blind which had to be repaired. I find the tenant breached the Act when they failed to repair the damaged blind and this caused losses to the landlord. Therefore, I find the landlord is entitled to recover the cost of repairing the blind in the amount of **\$225.24**.

Painting

I accept the undisputed evidence of the landlord's agent that the tenant caused damage to the walls by installing a baby gate and applying stickers to the walls. I find the tenant breached the Act when they failed to repair the walls and this caused losses to the landlord. Therefore, I find the landlord is entitled to recover the cost of repairing the walls in amount of **\$180.00**.

Boxes, labour and storage cost

I accept the undisputed evidence of the landlord's agent that the tenant did not remove all their belonging from the rental unit. This supported by the photographic evidence. The landlord purchased boxes, packed and stored the tenant's belongings. I find the tenant breached the Act when they failed to remove all their belongings from the rental unit at the end of the tenancy and this caused losses to the landlord. Therefore, I find

the landlord is entitled to recover the cost of boxes, labour and storage in the amount of **\$389.86**.

I find that the landlord has established a total monetary claim of **\$3,198.19** comprised of the above-described amounts and the \$100.00 fee paid for this application.

I order that the landlord retain the security deposit of **\$975.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$2,223.19**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

#### Conclusion

The landlord is granted a monetary order and may keep the security deposit in partial satisfaction of the claim and the landlord is granted a formal order for the balance due.

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 12, 2016

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Residential Tenancy Branch