



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

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### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, dated February 28, 2017, and subsequently amended by two Amendments to an Application for Dispute Resolution, received at the Residential Tenancy Branch on March 7 and 23, 2017, respectively (the "Application"). The Tenants applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order cancelling a notice to end tenancy for cause;
- an order cancelling a notice to end tenancy for end of employment;
- an order granting recovery of the filing fee;
- other monetary relief.

The Tenant attended the hearing on her own behalf. The Landlord attended the hearing and was represented by her legal counsel V.G. All parties giving oral testimony provided a solemn affirmation.

The Tenant testified she served the Landlord with an Application package and each of the subsequent evidence packages and amendments by registered mail. Receipts were provided in support. On behalf of the Landlord, V.G. acknowledged receipt of these documents and confirmed the Landlord was prepared to proceed with the dispute resolution hearing.

The Landlord submitted documentary evidence in response to the Tenant's Application. According to the Landlord, these were served on the Tenant by leaving a copy at the door of the rental unit. Although the Tenant expressed concerns around the method of service, she acknowledged receipt of the Landlord's single documentary evidence package on March 19, 2017.

No further issues were raised with respect to service or receipt of the documentary and digital evidence relied upon by the parties. The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters

During the hearing, the Tenant advised she intends to vacate the rental unit on April 30, 2017. Accordingly, the Tenant agreed to withdraw that part of her Application that deals with her request for an order cancelling the notice to end tenancy. I have not considered this aspect of the Tenant's Application further in this Decision.

In addition, the Tenant confirmed during the hearing that she is withdrawing her claims of \$1,340.00 for missed seminars, \$3,600.00 for loss of quiet enjoyment, and \$250.00 for cleaning costs related to construction. I accept the Tenant's withdrawal of these items. They have not been considered further in this Decision.

### Background and Evidence

The Landlord submitted with her documentary evidence a copy of the tenancy agreement between the parties. It confirmed a fixed-term tenancy for the period from August 1, 2014 to July 31, 2018. Although the parties signed a Mutual Agreement to End a Tenancy, signed and dated May 31, 2017 (the "Mutual Agreement"), the Tenant advised during the hearing that she has obtained alternate accommodation and will vacate the rental unit on April 30, 2017. Rent in the amount of \$1,200.00 per month is due on the first day of each month. The Tenant paid a security deposit of \$600.00 and a pet damage deposit of \$600.00.

The Tenant claims she is entitled to recover a number of expenses related to the end of the tenancy. Although she acknowledged she agreed to end the tenancy, she testified she feels "forced out" of the rental unit by the Landlord's actions. First, she claimed \$2,095.55, which was comprised of \$1,200.00 for one month of rent and \$100.00 for return of the filing fee. The remainder reflected the Tenant's estimate of her moving costs, based on a quote submitted with her documentary evidence.

Second, the Tenant claimed \$250.00 for assistance with packing her belongings. This was based on an estimate that she would require 10 hours of assistance at \$25.00 per hour. A type-written quote from the Tenant's cleaner was provided in support.

Third, the Tenant claimed \$37.18 she paid for packing boxes from U-Haul. The Tenant provided a receipt in this amount in support of her claim.

Fourth, the Tenant claimed \$4,500.00 in additional rent she testified she has to pay. The Tenant did not provide a copy of the new tenancy agreement. However, she stated her new rent is \$1,575.00, which is \$375.00 greater than her current rent. The Tenant sought to recover the difference for the 12 month period following the end of the current tenancy ( $\$375.00 \times 12 \text{ months} = \$4,500.00$ ).

Fifth, the Tenant claimed \$375.00 for the difference between her current security and pet damage deposits, and the deposits she has to pay at her new accommodation. The Tenant did not provide a copy of the new tenancy agreement.

Sixth, the Tenant claimed \$106.61 for costs associated with preparing for this dispute resolution hearing, such as printer ink and registered mail. The Tenant referred me to receipts for these expenses in her documentary evidence.

Finally, the Tenant claimed \$25.10 for additional registered mail costs associated with preparing for this dispute resolution proceeding. Receipts were provided in support.

On behalf of the Landlord, V.G. submitted that the Tenant's claims are related almost exclusively to costs arising due to the end of the tenancy. However, he stated, the tenancy will end by agreement. On behalf of the Landlord, V.G. submitted the Landlord should not be responsible to reimburse the Tenant for expenses arising from an agreement to end the tenancy.

### Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 67 of the *Act* empowers me to order one party to pay compensation to the other if damage or loss results from a party not complying with the *Act*, regulations or a tenancy agreement.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided for in sections 7 and 67 of the *Act*. An applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and
4. That the party making the application did what was reasonable to minimize the damage or loss.

In this case, the burden of proof is on the Tenant to prove the existence of the damage or loss, and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Landlord. Once that has been established, the Tenant must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Tenant did what was reasonable to minimize the damage or losses that were incurred.

The Tenant testified she is entitled to be reimbursed for a number of expenses she has incurred or will incur as a result of the end of the tenancy. However, with respect to the Tenant's claims, I find there is insufficient evidence before me to conclude there has been a violation of the *Act*, Regulations or the tenancy agreement. Rather, pursuant to an agreement between the parties, made subsequent to the Mutual Agreement, the tenancy will end on April 30, 2017. As a result, the Landlord is not responsible to reimburse the Tenant for the moving expenses claimed.

With respect to the Tenant's claims for ink and postage expenses incurred to prepare for the dispute resolution hearing, I find these are not compensable. Rule of Procedure 3.13 provides that, where possible, an applicant's evidence package must be submitted to the Residential Tenancy Branch and served on the respondent in a single complete package. That the Tenant served several documentary evidence packages by registered mail was a decision made by the Tenant. She should bear that expense.

In light of the above, I find the Tenant is not entitled to the relief sought. The Tenant's Application is dismissed, without leave to reapply. As she has not been successful, I find the Tenant is not entitled to recover the filing fee paid to make the Application.

#### Conclusion

The Tenant's Application is dismissed, without leave to reapply.

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: March 29, 2017

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Residential Tenancy Branch