



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes                      MNDC, MNSD, FF

### Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution wherein the Landlord requested monetary compensation from the Tenant, authority to retain the security deposit and to recover the filing fee.

The hearing was conducted by teleconference at 1:30 on July 31, 2017. Only the Landlord called into the hearing. He gave affirmed testimony and was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions to me.

The Landlord testified that he served the Tenant with the Notice of Hearing and the Application on March 2, 2017 by registered mail to the Tenant's work address. Documentary evidence supplied by the Landlord confirms the Tenant provided her work address as her forwarding address. A copy of the registered mail tracking number is provided on the unpublished cover page of this my Decision.

*Residential Tenancy Policy Guideline 12—Service Provisions* provides that service cannot be avoided by refusing or failing to retrieve registered mail:

Where a document is served by registered mail, the refusal of the party to either accept or pick up the registered mail, does not override the deemed service provision. Where the registered mail is refused or deliberately not picked up, service continues to be deemed to have occurred on the fifth day after mailing.

Pursuant to section 90 of the *Residential Tenancy Act* documents served this way are deemed served five days later; accordingly, I find the Tenant was duly served as of March 7, 2017 and I proceeded with the hearing in their absence.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, not all details of the Landlord's submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

1. Is the Landlord entitled to monetary compensation from the Tenant?

2. What should happen with the Tenant's security deposit?
3. Should the Landlord recover the filing fee

#### Background and Evidence

The Landlord testified that this tenancy began March 1, 2016. A copy of the residential tenancy agreement was also provided in evidence and confirmed this tenancy was for a two year fixed term.

The Landlord stated that the Tenant moved out of the rental unit on either February 25 or February 26, 2017. He stated that she simply "disappeared".

The Landlord stated that the Tenant failed to clean the rental unit as required. He stated that the Tenant failed to clean the carpets, remove her garbage, repair damage to the walls, aluminum railing and various plumbing fixtures. Photos submitted by the Landlord confirm his claims.

Introduced in evidence was a Monetary Orders Worksheet confirming the Landlord sought compensation for the above, in addition to a "management fee for re-renting" the unit. Some of the amounts claimed were estimates.

At the hearing, the Landlord confirmed the actual amounts spent. Those figures are less than the amounts claimed on the filed Monetary Orders Worksheet and are as follows:

Carpet cleaning	\$135.00
Garbage removal	\$100.00
Replace aluminium railing	\$295.00
Replace bathroom faucet, paper holder and shower nozzle	\$26.90

Following the hearing I gave the Landlord leave to submit the receipts for the above. I confirm they were received on August 1, 2017 and were considered in making this my Decision.

The Landlord also sought recover of the \$100.00 filing fee.

#### Analysis

In a claim for damage or loss under section 67 of the *Act* or the 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* provides that if a Landlord or Tenant does not comply with the *Act*, regulation or tenancy agreement, the non-complying party 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.

The condition in which a Tenant should leave the rental unit at the end of the tenancy is defined in section 37 of the *Act* as follows:

37 (2) When a tenant vacates a rental unit, the tenant must leave the rental unit 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.

After consideration of the undisputed testimony and evidence before me, and on a balance of probabilities I find as follows.

As noted during the hearing, the Landlord is not entitled to recover a management fee for re-renting the rental unit. This is a business decision made by the Landlord and is not recoverable under the *Residential Tenancy Act*.

I am persuaded by the Landlord's testimony, as well as the photos submitted in evidence that the carpet required cleaning at the end of the tenancy. I therefore award the Landlord the **\$135.00** amount claimed.

Similarly, I award the Landlord the costs for the removal of the Tenant's garbage in the amount of **\$100.00** as well as the cost to repair the aluminum railing (**\$295.00**), and to replace the shower head, toilet paper dispenser and faucet cap (**\$26.90**).

The Landlord stated that he did not repair the drywall, nor did he attend to repainting as he re-rented the rental unit as soon as the tenancy ended. The photos submitted in evidence do not convince me that the walls were damaged beyond reasonable wear and tear. Further, I find the Landlord has failed to establish a loss related to the alleged damage. As such, I dismiss the Landlord's claim for the estimated cost to repair the drywall and paint the rental unit.

As the Landlord has been successful, I also award him recovery of the **\$100.00** filing fee.

#### Conclusion

The Landlord is entitled to monetary compensation in the amount of \$656.90 representing the following:

Carpet cleaning	\$135.00
Garbage removal	\$100.00

Replace aluminium railing	\$295.00
Replace bathroom faucet, paper holder and shower nozzle	\$26.90
Filing fee	\$100.00
<b>TOTAL</b>	<b>\$656.90</b>

I authorize the Landlord, pursuant to sections 38 and 72 of the *Residential Tenancy Act*, to retain the Tenant's \$550.00 security deposit as partial payment of the above.

The Landlord is granted a Monetary Order for the balance due in the amount of **\$106.90**. This Order must be served on the Tenant and may be filed and enforced in the B.C. Provincial Court (Small Claims Division).

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: August 3, 2017

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Residential Tenancy Branch