



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding HOMELIFE GLENAYRE REALTY CHILLIWACK LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes            MNSD FF

### Introduction

This hearing was convened as a result of the landlord's application for dispute resolution seeking remedy under the *Residential Tenancy Act* (the "Act"). The landlord applied for authorization to keep all or part of the tenant's security deposit and to recover the cost of the filing fee.

The agent for the landlord (the "agent") and the tenant appeared at the teleconference hearing and gave affirmed testimony. During the hearing the parties provided testimony and the agent presented their documentary evidence. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

The tenant confirmed that she was served with the landlord's documentary evidence and that she had the opportunity to review the documentary evidence prior to the hearing. The tenant also confirmed that she did not serve the landlord with any documentary evidence in response to the landlord's application.

As a result of the above, I find there were no service issues raised and that the parties were sufficiently served under the *Act*.

### Preliminary and Procedural Matter

Although the landlord submitted a monetary order worksheet in evidence that indicated \$500.00 was being claimed, I note that the landlord did not apply to amend their monetary claim from the original amount of \$350.00, which was comprised of \$250.00 monetary claim plus the \$100.00 filing fee. As a result of the landlord failing to comply with section 4.1 of the Rules of Procedure, the landlord was advised that the maximum monetary claim for the landlord would be \$350.00 which is comprised of the \$250.00 claim plus the \$100 filing fee. The remainder of the landlord's claim was dismissed without leave to reapply as the tenant was not served with an amended monetary claim.

Issue to be Decided

- Is the landlord entitled to a monetary claim and if so, what should happen to the tenant's security deposit under the *Act*?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed term tenancy began on January 1, 2013 and reverted to a month to month tenancy after December 31, 2013. Monthly rent in the amount of \$1,375.00 was due on the first day of each month. A security deposit of \$687.50 was paid by the tenant at the start of the tenancy which has accrued no interest. The tenant confirmed that she gave the landlord permission to retain \$197.87 of the \$687.50 security deposit at the end of the tenancy and that the tenant received and deposited a cheque for \$139.63 from the landlord. The landlord continues to hold \$350.00 of the tenant's security deposit and the landlord is seeking permission to retain that remaining amount of \$350.00.

The landlord's monetary claim on their monetary worksheet had four items, the first three of which are dismissed without leave to reapply as they exceed the original portion of the claim which was \$250.00 for the strata fine related to paint on the driveway, plus the filing fee of \$100.00.

The landlord submitted a colour photo showing blue paint on the tenant's car and on the driveway and after photos when attempts to clean the blue paint were still visible on the driveway. The tenant claims that the fine of \$250.00 was an arbitrary number and that she should not be responsible as a result. The landlord also submitted documents from the strata which confirmed the fine of \$250.00 for blue paint on the driveway.

The landlord also submitted a tenancy agreement addendum and a Form K document which support that the tenant was aware that she was responsible for all strata fines during the tenancy.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

**Landlord's monetary claim** – As the first three items of the landlord's claim were dismissed as the landlord failed to amend their application and serve the amended application on the tenant, I will only deal with the \$250.00 strata fine for paint on the driveway and the filing fee.

There is no dispute that blue paint was spilled on the driveway during the tenant's tenancy. There is no dispute that the strata issued a \$250.00 fine. The tenant is disputing that she is responsible for the fine as the amount was an arbitrary number chosen by the strata. I find that

such an argument is moot as the facts are that the strata issued the \$250.00 fine, the tenant signed the tenancy agreement addendum and Form K which confirmed she was aware that she was responsible for strata fines, and did not dispute that the blue paint was spilled on the tenant's driveway. As a result, I find the landlord has met the burden of proof and that the tenant's is responsible for the **\$250.00** strata fine.

As the landlord's application had merit, I grant the landlord the recovery of the filing fee in the amount of **\$100.00**.

I find that the landlord has established a total monetary claim in the amount of **\$350.00** comprised of \$250.00 for the strata fine for paint and \$100.00 for recovery of the filing fee. I **authorize** the landlord to retain the tenant's remaining \$350.00 security deposit balance in full satisfaction of the landlord's monetary claim. I find that a monetary order is not required as a result.

#### Conclusion

The landlord's monetary claim is successful.

I authorize the landlord to retain \$350.00 from the tenant's remaining \$350.00 security deposit in full satisfaction of the landlord's monetary claim leaving the tenant's security deposit balance as \$0.00.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: October 30, 2017

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Residential Tenancy Branch