



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNETC FFT

### Introduction

This hearing was convened as a result of the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act). The tenant applied for a monetary order in the amount of \$1,800.00, for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, and to recover the cost of the filing fee.

The tenant and the landlord attended the teleconference hearing, all participants were affirmed, the hearing process was explained, and the parties were given an opportunity to ask questions about the hearing process. Thereafter the parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing and make submissions to me.

I have reviewed all testimony and documentary evidence presented that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules); however, I refer to only the relevant evidence related to the facts and issues in this decision. Words utilizing the singular shall also include the plural and vice versa where the context requires.

As both parties confirmed that they had been served with documentary evidence from the other party and that they had the opportunity to review that evidence, I find the parties were sufficiently served in accordance with the Act.

### Preliminary and Procedural Matters

The parties confirmed their respective email addresses at the outset of the hearing and stated that they understood that the decision would be emailed to them.

### Issues to be Decided

- Has the tenant provided sufficient evidence to support that they are entitled to monetary compensation from the landlord?
- If yes, is the tenant also entitled to the recovery of the cost of the filing fee under the Act?

### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month-to-month tenancy began on July 1, 2021. Monthly rent was \$1,700.00 per month and was due on the first day of each month.

Although the parties confirmed that there was no formal 2 Month Notice to End Tenancy for Landlord's Use of Property (2 Month Notice) served on the tenant by the landlord, the tenant is seeking compensation of 1 month of rent in the amount of \$1,700.00 plus the \$100.00 filing fee for being asked to vacate the rental unit by the landlord via email, and the landlord agreeing to compensate the tenant for doing so.

The tenant submitted the following email and What's App evidence for consideration where "Emma" represents the tenant and "Moi and/or N" represents the landlord:

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#### **I need to talk to you**

4 messages

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N [REDACTED] 3 août 2021 à 18:28  
Répondre à : N [REDACTED]  
À : Emma [REDACTED]

Hi Emma,  
I hope all is well with you.  
I'm in a bad situation right now. My relationship with [REDACTED] is ending. I need to move out of here and have nowhere else to go other than a hotel.  
I have no choice other than coming back there. I'm so sorry. I really didnt want this to happen. If you think you wouldn't be able to find a place by the end of this month it's ok. Let me know and I think of something else.  
I'm so sorry. I dont know what else to do.

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Emma [REDACTED] 3 août 2021 à 20:28  
À : N [REDACTED]

Hi N [REDACTED]  
I'm very sorry to hear that.  
I'm just coming back from vacation.  
I will try to find a new apartment as soon as possible. I'll let you know but I realistically don't think I can move out before September 1st or 15th.  
So sorry,  
Emma

N [REDACTED] 3 août 2021 à 20:32  
Répondre à : N [REDACTED]  
À : [REDACTED]

Again I'm really really sorry. I wish I never had to do this 😊

Emma [REDACTED] 3 août 2021 à 20:34  
À : N [REDACTED]

I really understand!! It happens. Don't worry.

31 août 2021

Hi Emma I got to talk to the Tennancy board and I am obligated to pay the compensation to you. I have a request though. I will pay you the security deposit on September 1st when we meet. And I will pay the compensation on the 15th of September when I get my salary. The bored approved of this arrangement. I'll be moving in on September 2nd. Right now I'm staying at an Airbnb. 09:15

Sept 15th sounds good for the compensation. No worries. 10:14 ✓✓

Thanks 10:15

We're meeting on Sept 2nd at 6pm though. I can meet you at 4pm or noon at the earliest 10:15 ✓✓

Oh yes. Sep 2nd. 6 pm works 10:15

Perfect! Thanks 10:16 ✓✓

2021-06-27, 3:39 p.m. - Messages and calls are end-to-end encrypted. No one outside of this chat, not even WhatsApp, can read or listen to them. Tap to learn more.

2021-06-27, 3:39 p.m. - Moi: Hi

2021-06-27, 3:39 p.m. - Emma:

2021-08-13, 3:33 p.m. - Moi: Hi Emma!

Someone just called researching on you for your rental application. This is the phone # :

[REDACTED]  
I told her what an amazing Tennant you are.

2021-08-13, 4:24 p.m. - Emma: Thank you so much!!!!

2021-08-13, 4:24 p.m. - Emma: There were so many people at the viewing I'm happy their actually calling about me

2021-08-13, 4:27 p.m. - Emma: You might get a few different calls. I'm applying for a bunch of apartments.

It was difficult at the beginning. I sent emails, left voice messages and never got anything in return. Very frustrating!

But I have more viewings now. It looks like it will work out

2021-08-13, 4:31 p.m. - Moi: I know how the rental market is here. It's crazy. Hopefully you'll find the right one. You are a professional young woman with great personality and attitude. I was so lucky to have had you as a Tennant. Everybody wants a Tennant like you.

2021-08-13, 4:36 p.m. - Emma: thank you!!

2021-08-22, 11:22 a.m. - Moi: Hi Emma

How are you? Hows the search going? I hope it's going well and you're not stressed about it.

2021-08-22, 12:11 p.m. - Emma: Hi N[REDACTED]. It's going ok. I found an apartment yesterday. I signed the lease with the agency but the landlord still needs to sign it. I don't know when I'll be able to move in. I need to book the elevator and of course they make it difficult.

Only between 9am and 3pm. I'm waiting to see if I can move on a week night before Sept 1st. Otherwise it will be Saturday Sept 4th.

2021-08-22, 12:13 p.m. - Emma: <Media omitted>

Do you want tables like these? it's from Structube, I'll put them for sale for 200\$

2021-08-22, 12:13 p.m. - Emma: <Media omitted>

2021-08-22, 12:13 p.m. - Emma: <Media omitted>

2021-08-22, 12:13 p.m. - Emma: <Media omitted>

2021-08-22, 12:14 p.m. - Moi: That's a great news. I'm happy for you? Where are you moving to? Hopefully well still be neighbours. dont worry about the date. First week of September is ok too.

2021-08-22, 12:14 p.m. - Emma: <Media omitted>

A friend of mine is selling a bed with a trunk for 300\$ too, it's big. It would only fit with the head towards the window in your room

2021-08-22, 12:14 p.m. - Emma: <Media omitted>

2021-08-22, 12:14 p.m. - Emma: <Media omitted>

2021-08-22, 12:15 p.m. - Emma: Closer to [REDACTED] not great. And way more expensive. So I'll probably stay there for a year and move again

2021-08-22, 12:17 p.m. - Moi: Ugh ! Vancouver is becoming too expensive to be single. And for me moving back and being paying the mortgage, strata, insurance, tax and ....is almost unaffordable.

2021-08-22, 12:18 p.m. - Emma: <Media omitted>

Do you need a desk? With a shelf. It's also Structube, will put it for sale for 350\$

2021-08-22, 12:19 p.m. - Emma: Really it's completely crazy!! So depressing

2021-08-22, 12:19 p.m. - Moi: Thanks emma, but all those furniture look bigger than what I was hoping to find. I guess I get everything from IKEA at once and the same day delivery

2021-08-22, 12:19 p.m. - Emma: Yeah the bed is huge

2021-08-22, 12:20 p.m. - Emma: I might have a shelf that won't fit in the new apartment but that's about it

2021-08-22, 12:21 p.m. - Moi: Hopefully this change will be positive one for both of us, kind of a new start and new discoveries

2021-08-22, 12:23 p.m. - Emma: Yeah exactly. Stay positive

2021-08-22, 5:28 p.m. - Emma: Hi again N[REDACTED]

If I take my friends bed, would you be interested in mine?

It's a queen size spring box with a 2years old mattress.

2021-08-22, 5:28 p.m. - Emma: <Media omitted>

2021-08-22, 6:00 p.m. - Moi: Is the mattress spring and foam ?

2021-08-22, 6:01 p.m. - Moi: And how much are you thinking ?

2021-08-22, 6:07 p.m. - Emma: Yes

2021-08-22, 6:07 p.m. - Emma: <Media omitted>

2021-08-22, 6:07 p.m. - Emma: I'm not sure 200\$?

2021-08-22, 6:09 p.m. - Moi: Yes \$200 is fair.

Thank you. That makes my life much easier not waiting for it for one week to be delivered

2021-08-22, 6:18 p.m. - Emma: Oh I know! Deliveries are the worst

2021-08-23, 5:26 p.m. - Moi: Hi Emma

Would you please let me know when you find out which day you would be moving ? Then I could arrange delivery for furnitures I'm buying. No pressure. Just for planning ahead :)

2021-08-23, 5:47 p.m. - Emma: I really don't know. I still don't have the lease signed by the landlord they're in no rush

I can probably move on the weekend of Sept 4-5. But I'll let you know if I'm able to do anything before that.

2021-08-23, 5:59 p.m. - Moi: Ok. No worries. Thanks

2021-08-23, 6:31 p.m. - Emma: Thanks. It's not going the way I want. I'm a little tired

2021-08-23, 6:33 p.m. - Moi: I can imagine. What a crappy last couple of years for all of us

2021-08-23, 6:40 p.m. - Emma: Yeah not easy

2021-08-24, 9:04 p.m. - Moi: Hi Emma

I ordered something online from china and seems like it's going be delivered earlier than what I anticipated. Supposed to arrive mid September. It's a small box. Would you please let me know if and when delivered ? Thanks a lot

2021-08-24, 9:15 p.m. - Emma: Sure no worries

2021-08-26, 4:41 p.m. - Emma: Hi N [REDACTED] so you want a shoe rack/ bench? I'm thinking about selling it for 30\$

2021-08-26, 4:41 p.m. - Emma: <Media omitted>

2021-08-26, 4:41 p.m. - Emma: <Media omitted>

2021-08-26, 4:57 p.m. - Moi: Hi Emma. That looks nice, but I don't need it. I'm keeping the shoes in the closet (don't have many)

2021-08-26, 4:59 p.m. - Emma: Sounds good

2021-08-27, 2:55 p.m. - Emma: Hi N [REDACTED], I finally got it organized. I'll be able to meet you for the check and keys on Sept 2nd!! Would 6pm work for you?

2021-08-27, 3:21 p.m. - Moi: Oh nice. You must be relieved a bit. Sure Sept 2nd at 6 works. See you then

So things to exchange would be the laundry card, door and mailbox keys, and for me to return your deposit of \$1700. Is there anything else that I dont remember?

2021-08-27, 3:46 p.m. - Emma: Yeah I'm happy it's happening but I'll be relieved when it will all be over. Probably in a week or so.

Yes, laundry card + mailbox, doors and locker keys + the damage and pet deposit of 1700\$.

But there's also a compensation for breaking the lease of another 1700\$.

I will need it for next year as rent has increased of 200\$ what a crazy city!

2021-08-27, 3:46 p.m. - Emma: IMG-20210827-WA0015.jpg (file attached)

2021-08-27, 3:58 p.m. - Moi: IM not aware of the compensation you mentioned. Because our contract was month to month. But I'll contact the Tenancy board and find out. If that is the case I will pay that. I'm in financial constraints right now as well and understand what you're saying.

2021-08-27, 4:16 p.m. - Emma: The compensation is also due for month to month agreements

2021-08-27, 4:16 p.m. - Emma: <https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/ending-a-tenancy/landlord-notice/two-month-notice>

2021-08-27, 4:20 p.m. - Moi: OK. I didn't know that. I will pay you that amount. I'd appreciate if you brought it up earlier then I'd think of something. Since I'm not in a good shape financially either.

I can not buy the bed and mattress from you now. Gotta use that money for the compensation.

2021-08-27, 4:36 p.m. - Emma: I'm sorry, I assumed you knew

2021-08-27, 4:37 p.m. - Emma: I can't keep the bed. I bought my friend's bed

2021-08-27, 4:39 p.m. - Moi: I can't afford to pay for it anymore

2021-08-27, 4:39 p.m. - Emma: Getting a new bed will be more expensive than mine. But sure whatever you prefer

2021-08-27, 4:40 p.m. - Moi: I won't get a new bed either. I have a puffy blanket I use that

2021-08-28, 9:14 a.m. - Moi: Hi Emma

Was wondering if my package arrived. Got a notification it was delivered.

Also I researched about the compensation. I'm learning. Never rented my place before and don't know about details of the rules. I will pay your security deposit on Monday after inspecting the place. But will pay the compensation as soon as I get to consult with the tenancy board just to be sure.

2021-08-28, 12:13 p.m. - Emma: Yes your package is here. I'm away for the weekend though

2021-08-28, 12:17 p.m. - Emma: I thought about a compromise. I can give you the bed for free. And in exchange I won't do a deep clean up, I'll just vacuum. I already cleaned the oven, the bathtub and the fridge.

2021-08-28, 12:19 p.m. - Moi: Emma I don't want the bed and I'd appreciate if you return the place to me as it was given to you. My friend is giving me her bed.

Thanks

2021-08-31, 9:15 a.m. - Moi: Hi Emma I got to talk to the Tenancy board and I am obligated to pay the compensation to you. I have a request though.

I will pay you the security deposit on September 1st when we meet. And I will pay the compensation on the 15th of September when I get my salary.

The board approved of this arrangement.

I'll be moving in on September 2nd. Right now I'm staying at an Airbnb.



2021-08-31, 10:14 a.m. - Emma: Sept 15th sounds good for the compensation. No worries.

2021-08-31, 10:15 a.m. - Moi: Thanks

2021-08-31, 10:15 a.m. - Emma: We're meeting on Sept 2nd at 6pm though.

I can meet you at 4pm or noon at the earliest

2021-08-31, 10:15 a.m. - Moi: Oh yes. Sep 2nd. 6 pm works

2021-08-31, 10:15 a.m. - Emma: Perfect! Thanks  
2021-08-31, 6:17 p.m. - Emma: <Media omitted>  
Hi N [REDACTED]. Do you want to keep the tub mat? Or should I throw it out?  
2021-08-31, 6:34 p.m. - Moi: Please throw it out  
2021-08-31, 6:35 p.m. - Emma: Yeah that's what I thought.  
2021-08-31, 6:38 p.m. - Moi: Thanks  
2021-09-02, 5:51 p.m. - Emma: Hi N [REDACTED], I'm sitting in front of the garage. Let me know when you're here. Thanks  
2021-09-02, 5:52 p.m. - Moi: Hi Emma, Almost there  
2021-09-02, 5:52 p.m. - Emma: Perfect  
2021-09-02, 6:50 p.m. - Emma: Hi again, I just got your e transfer  
  
2021-09-02, 7:18 p.m. - Moi:   
  
2021-09-04, 9:30 a.m. - Moi: Hi Emma  
Do you know the buzz # and how to let guests in ?  
2021-09-04, 9:33 a.m. - Emma: Hi N [REDACTED].  
The buzzer number is [REDACTED] but it's not working with the landphone anymore. You have to contact strata to give your cellphone number.  
2021-09-04, 9:33 a.m. - Moi: Oh right. Thanks. Forgot about that  
2021-09-04, 9:34 a.m. - Emma: No worries  
2021-09-04, 9:40 a.m. - Moi: Sorry Emma, and what number do you press from your cellphone to open the door ?  
2021-09-04, 9:41 a.m. - Emma: I press 9 like the old system and it works. But recently someone from the building told me we should press 7.  
2021-09-04, 9:42 a.m. - Moi: Oh. Ok I try both. Thanks again  
  
2021-09-04, 9:45 a.m. - Emma: 

The tenant stated that these documents supports their agreement whereby the landlord agreed to compensate the tenant and that the landlord had confirmed that compensation was required for the tenant.

The landlord's response to the tenant's claim was that the original information they were provided was found to be incorrect, the landlord requested that the tenant sign a Mutual Agreement to End Tenancy (Mutual Agreement), which the tenant signed by both parties and dated September 2, 2021. The tenant stated that they signed the Mutual Agreement on September 2, 2021 as the landlord did not provide anything to the tenant prior to the Mutual Agreement being signed that indicated that the landlord had changed their mind in compensating the tenant for vacating the rental unit as requested by the landlord.



The tenant confirmed that they did not contact the RTB before signing the Mutual Agreement and that on September 8, 2021, the landlord advised the tenant that they changed their mind about compensating the tenant after the tenant had already vacated the rental unit.

The landlord submitted the following document explaining their response to the tenant's claim as follows:

I am writing to you to describe why I refused to pay the compensation the tenant requested. I submitted complete back and forth conversation which started by me (landlord) emailing the tenant (in panic, as I was planning my escape from an abusive relationship). It was a woman to woman talk and more like a request for help. You will notice on the email I asked if she could move out at the end of the month and if not it's OK. I think of something else. (I planned to rent a furnished room somewhere if my tenant couldn't move out), but she responded that she understands and will move out either at the end of the month or the 15<sup>th</sup> of the following month. (We reached a mutual agreement there)

The tenant found a place and notified me at the end of the month when we were about to meet to exchange keys and security deposit. Suddenly the tenant surprised me by requesting a compensation for "breaking the lease". I am inviting you to look at the date that the tenant brought that up. It was at the end of the month when I had absolutely no other choice and nowhere else to go. I was financially struggling at that time. The reason I rented that place was that I lost my job and was on EI and couldn't afford the mortgage anymore. Then I went to school and was living on student loan. I had absolutely no saving and my credit card was almost maxed out. I paid her security deposit from credit card. And for her to surprise me like that was so unempathetic, unethical and deviceful. It felt like a punch into my stomach, and I was already in one of the worst situations of my life escaping from an ex with major anger issues. I know that my problems are only mine and no one else is responsible for it, but I needed to know about this compensation at the very beginning when she agreed to move out and not to surprise me at the end of the month.

I said if I'm legally obligated to pay that I will, but I need to talk with authorities. So, I called "tenants.BC.CA" thinking it's the same as Residential Tenancy Branch. I talked with someone, and they told me that I am obligated to pay her that amount. I communicated that to the tenant and told her that it seems like I am legally obligated to pay you.



Then I realized that the tenant.CA is not a regulatory body and I should actually contact Residential Tenancy Branch. So, I did. When I talked with an officer, she asked questions regarding the situation, and I told her everything about this case. She told me that the tenant is not eligible for that compensation. She agreed to move out based on a mutual agreement and she signed the mutual agreement to End the tenancy #RTB-8 and for that reason she has no right to that compensation.

I communicated that to the tenant via email and never heard from her. Few days later I received the "notice of dispute resolution proceeding"

If I am legally obligated to pay her that compensation I will. So far, I have just believed and followed everyone regarding this compensation (Tenant, Tenant.ca, Residential Tenancy Branch). I will be happy with any decision you make as I know it would be fair and according to the law.

[Personal information redacted to protect privacy]

### Analysis

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

As there is no 2 Month Notice before me, the only matter for my to consider is whether the parties had reached an agreement or formed a contract for compensation by the landlord to the tenant and if so, did the landlord renege on that agreement or contract.

I have carefully reviewed all of the correspondence between the parties and the Mutual Agreement, and after considering the wording of all documents, I find the tenant has met the burden of proof and that the landlord must compensate the tenant the amount of \$1,700.00 plus the \$100.00 filing fee for a total of \$1,800.00. I have reached this finding as I find that the tenant had no legal requirement to move out based on the request of the landlord and that the tenant only made that decision to agree to the landlord's request based on the agreement as follows:

2021-08-28, 9:14 a.m. - Moi: Hi Emma

Was wondering if my package arrived. Got a notification it was delivered.

Also I researched about the compensation. I'm learning. Never rented my place before and dont know about details of the rules. I will pay your security deposit on Monday after inspecting the place. But will pay the compensation as soon as I get to consult with the tenancy board just to be sure.

2021-08-31, 9:15 a.m. - Moi: Hi Emma I got to talk to the Tennancy board and I am obligated to pay the compensation to you. I have a request though.  
I will pay you the security deposit on September 1st when we meet. And I will pay the compensation on the 15th of September when I get my salary.  
The bored approved of this arrangement.

I afford little weight to the Mutual Agreement as it was signed **after** the above conversation took place and the landlord had already done the following and communicated such to the tenant:

1. Stated they spoke to the RTB
2. Stated they are obligated to pay the compensation to the tenant.
3. Asked if they could pay the security deposit (\$1,700 including pet damage deposit) on September 1<sup>st</sup> when they meet and will pay compensation on 15<sup>th</sup> of September when the landlord gets their salary.
4. The landlord claimed the RTB (misspelled bored versus “board”) approved of this arrangement.

I afford no weight to the landlord’s claim they contacted the incorrect regulatory body (tenancy.ca versus the RTB) as I find that is the fault of the landlord and not the tenant and that the landlord’s lack of due diligence does not negate their agreement to compensate the tenant.

Given the above, I find the parties had an enforceable written agreement via email as of August 31, 2021, and that the Mutual Agreement dated September 2, 2021 does not supersede that agreement.

Therefore, pursuant to section 62(3) of the Act, I find landlord is liable to pay a total of **\$1,800.00** to the tenant as indicated above. I find the tenant has met the burden of proof and **I caution** the landlord to make any agreements via email or in any other form before exercising reasonable due diligence in the future.

In addition, **I caution** the tenant not to sign a Mutual Agreement in the future before reading through the entire agreement they are signing.

### Conclusion

The tenants' application is fully successful.

I find the landlord made a binding agreement to pay the tenant compensation of \$1,700.00 as of August 31, 2021. I find the Mutual Agreement does not supersede the binding agreement and that the landlord failed to exercise reasonable due diligence before sending the August 31, 2021 confirmation of compensation to the tenant.

The tenant is granted the filing fee of \$100.00 as their application was successful.

The tenant is granted a monetary order pursuant to section 67 of the Act, in the amount of \$1,800.00 as indicated above. This order must be served on the landlord and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision will be emailed to both parties. Both parties have been cautioned.

The monetary order will be emailed to the tenant only for service on the landlord.

Should the landlord fail to pay the monetary order once served upon them, along with a demand for payment letter from the tenant, they could be held liable for all costs related to enforcement of the monetary order.

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: May 4, 2022

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Residential Tenancy Branch