



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Advent Real Estate Services Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MND, MNSD, FF

### Introduction

This was a hearing with respect to the tenants' application for a monetary order and an order for the return of their security deposit including double the amount of the deposit. The hearing was conducted by conference call. The tenants did not attend but were represented by their agent. The landlord's agent called in and participated in the hearing.

### Issue(s) to be Decided

Are the tenants entitled to the return of a portion of the rent paid for the month of July, 2012?

Are the tenants entitled to the return of their security deposit, including double the amount of the deposit?

### Background and Evidence

The rental unit is a strata title town house in Burnaby. The tenancy began in February, 2011. The monthly rent at the end of the tenancy was \$1,665.00. The tenants paid an \$800.00 security deposit at the commencement of the tenancy.

During the tenancy the tenants acquired a pet, contrary to the terms of the tenancy agreement. The tenants were offered new tenancy terms that would allow them to keep the pet, but the tenants found them too onerous and declined them. On June 18, 2012 the tenants gave notice by e-mail that they would move out at the end of the month. The landlord advised the tenants that they had not given adequate notice; they needed to provide one month's notice and therefore would be responsible for July's rent.

The tenants paid rent for July, but they substantially moved out by the end of June. The tenants' agent said that on or about July 6, 2012 the tenants came to the rental unit and

found a condition inspection report prepared by the landlord posted to the door of the rental unit. The tenants concluded from the condition inspection form that they were not able to access the rental unit because the tenancy was over. The tenants had not finished cleaning up the rental unit and claim that they were denied possession of the unit even though they paid rent to the end of July.

The tenants have claimed for reimbursement of rent for the 25 day period in July they say they were deprived of the use of the rental unit in the amount of \$1,342.75, plus interest on that amount. The tenants also claim to be entitled to the return of their \$800.00 security deposit, plus double the amount of the deposit as a penalty because the landlord gave an improper walkthrough notification.

The landlord disputed the tenants' claim. The landlord's agent testified that he noticed near the end of June that the tenants were in the process of moving. He told the tenants that if they moved early he would endeavour to re-rent the unit for some part of July, in which case the tenants would not be responsible for the full rent for July. He inspected the unit on July 6<sup>th</sup>, but he testified that he did not restrict the tenants' access to the unit and noted that he has never received the keys to the rental unit from the tenants. He said that he never received a forwarding address from the tenants.

I learned during the hearing that the landlord made a claim against the tenants that was heard in a dispute resolution hearing on January 24, 2013. In the earlier proceeding the landlord claimed payment of the sum of \$9,588.00 for repairs to the rental unit, repainting and lost rental income. The landlord was awarded the sum of \$175.00 for the cost to replace a door and for the filing fee for the landlord's application, but the landlord's claims for other damage including the cost to replace a laminate floor, painting costs and for lost revenue were dismissed without leave to reapply.

### Analysis and conclusion

The tenants claimed payment of rent for a portion of July because they say the landlord improperly ended the tenancy by posting a condition inspection on the door on or about July 6<sup>th</sup>. I do not find that the landlord's action in making a condition inspection or posting the report entitles the tenants to a refund of rent for the balance of the month of July. The tenants interpreted the posting of the report as having the effect of preventing them from accessing the rental unit. It did not have that effect and the tenants made no inquiries and did not attempt to contact the landlord about the report or accessing the rental unit. I do not find that the tenants' are entitled to a refund of rent for July and this aspect of their claim is dismissed. The tenants did not provide the landlord with their forwarding address and the security deposit was not dealt with at the

hearing on January 24, 2013. They are not entitled to double the amount of their deposit pursuant to section 38 of the *Residential Tenancy Act* and I find that the tenants are not entitled to payment of double the amount of their security deposit because the landlord conducted a condition inspection without their participation, but they are entitled to the return of the balance of their deposit after deduction of the award made to the landlord in the amount of \$175.00 because all other claims brought by the landlord were dismissed without leave to reapply. The tenants have been partially successful on this application and they are entitled to recover the \$50.00 filing fee paid for the application. The deposit plus the filing fee is the sum of \$850.00. The January 24, 2013 award to the landlord of \$175.00 is deducted therefrom and noted as paid; I grant the tenants a monetary order under section 67 for the balance of \$675.00. This order may be registered in the Small Claims Court and enforced as an order of that court.

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: April 18, 2013

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Residential Tenancy Branch

