



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 0821149 B.C. LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD MNDC FF

### Introduction

This hearing dealt with an Application for Dispute Resolution filed on July 18, 2013, by the Landlord to obtain a Monetary Order for: money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, to keep the security deposit, and to recover the cost of the filing fee from the Tenant for this application.

The Landlord submitted documentary evidence which indicates the Tenant was served with copies of the Landlord's application for dispute resolution and Notice of dispute resolution hearing on July 18, 2013, by registered mail. Canada Post receipts were provided in the Landlord's evidence. Based on the submissions of the Landlord I find the Tenant is deemed served notice of this proceeding on July 23, 2013, five days after it was mailed, in accordance with section 90 of the Act. Therefore, I proceeded in the Tenant's absence.

### Issue(s) to be Decided

Is the Landlord entitled to a monetary order?

### Background and Evidence

The Landlord provided evidence that indicated that the Tenant entered into a written tenancy agreement for a furnished suite that began on May 4, 2013. The Tenant did not occupy the unit until May 17, 2013 and was required to pay \$450.00 rent on the first of each month. On May 4, 2013 the Tenant paid \$225.00 as the security deposit plus \$100.00 as the key deposit. Both parties attended and signed the move-in condition inspection report on May 17, 2013 and the move out condition inspection report on June 30, 2013.

The Landlord testified that the Tenant showed up at the office on June 30, 2013, to advise he was moving out immediately and wanted to hand in the keys. There was no notice provided so they arranged for an immediate move-out inspection and had the

Tenant sign the report. The Tenant provided a forwarding street address and later called the Landlord with the correct mailing address.

The Landlord referred to his photographic evidence, which supports the condition inspection report that indicates the rental unit was left in a mess. The unit was so dirty it took over five and a half hours of cleaning and over five hours of labour to complete the repairs. The Tenant had ruined the single bed and box spring so another used mattress set was purchased for \$100.00. The Tenant had also ripped the cable jack out of the wall and broke the door screen. There were bugs found crawling all over suite and one wall needed touch up painting.

The Landlord referenced his documentary evidence to prove they advertised the unit for rent right away but unfortunately they were not able to re-rent the unit until August 2013. They are seeking rent for July of \$450.00, plus the late payment fee of \$25.00 and \$381.61 for repairs and cleaning for a total amount of \$856.61, as per the receipts they provided in evidence.

In closing the Landlord wanted to emphasize that the Tenant occupied the rental unit for less than a month and a half and he left it damaged and completely filthy.

### Analysis

Upon consideration of the evidence before me, in the absence of any evidence from the Tenant who did not appear, despite being properly served with notice of this proceeding, I accept the undisputed version of events as discussed by the Landlord and corroborated by their documentary evidence.

Section 32 (3) of the Act provides that a tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

Section 37(2) of the Act provides that when a tenant vacates a rental unit the tenant must leave the rental unit reasonably clean and undamaged except for reasonable wear and tear.

Based on the aforementioned I find the Tenant has breached sections 32(3) and 37(2) of the Act, leaving the rental unit unclean and with some damage at the end of the tenancy. As per the foregoing, I find the Landlord has met the burden of proof and I award him damages and cleaning costs in the amount of **\$381.61**.

Section 45(1) of the Act stipulates that a tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that (a) is not earlier than one month after the date the landlord receives the notice, and (b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

In this case, the Tenant did not provide any notice and simply returned the keys the same day he told the Landlord he would be moving out. The Landlord minimized their loss by advertising the unit right away; however, they were not able to re-rent the unit until August 2013.

Based on the above, I find the Tenant ended this tenancy in breach of section 45(1) of the Act, which caused the Landlord to suffer a loss of rental income for the month of July in the amount of \$450.00. Accordingly, I award the Landlord loss of rent in the amount of **\$450.00**.

Section 44(1)(d) of the Act stipulates that a tenancy ends if the tenant vacates or abandons the rental unit.

Although this tenancy ended in breach of section 45(1) of the Act, it still ended effective June 30, 2013, in accordance with section 44(1)(d). Therefore, no rent was due and cannot be considered late. As a result, I find the Landlord is not entitled to recover a late payment fee. Accordingly, I dismiss the Landlord's claim for late payment charges, without leave to reapply.

The Landlord has been successful with their application; therefore I award recovery of the **\$50.00** filing fee.

**Monetary Order** – I find that the Landlord is entitled to a monetary claim and that this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the Tenants' security and key deposits, plus interest as follows:

Damages & cleaning	\$381.61
Loss of July 2013 rent	450.00
Filing Fee	<u>50.00</u>
<b>SUBTOTAL</b>	<b>\$881.61</b>
<b>LESS: Key Deposit of \$100.00</b>	<b>-100.00</b>
<b>LESS: Security Deposit \$225.00 + Interest 0.00</b>	<b><u>-225.00</u></b>
<b>Offset amount due to the Landlord</b>	<b><u>\$ 556.61</u></b>

Conclusion

The Landlord has been awarded a Monetary Order in the amount of **\$556.61**. This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia 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: October 23, 2013

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Residential Tenancy Branch

