



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MND, MNDC, MNSD, FF

### Introduction

This matter dealt with an application by the landlord for a Monetary Order for compensation for loss of revenue, cost of utilities and repairs to the rental unit, to recover the filing fee for this proceeding and to keep the tenant's security and pet deposit in partial payment of those amounts. The tenant brought a cross application for compensation occasioned by the landlord's breach of his tenancy agreement. Only the landlord attended the teleconference hearing.

### Issues(s) to be Decided

Is the Landlord entitled to compensation if so, how much?

### Background and Evidence

The landlord testified that she sent the application for dispute resolution by registered mail to the tenant's forwarding address on April 22, 2014. Canada Post's web site confirms that it was delivered on April 30, 2014. I therefore find that the tenant has been sufficiently served in accordance with the Act.

Based upon the evidence of the landlord I find that this month-to-month tenancy started on February 28, 2014 and ended on March 3, 2014 when the tenant moved out. Rent was \$ 895.00 per month payable in advance on the last day of each month. The tenant paid a security and pet deposit of \$ 695.00 on February 23, 2014.

The landlord testified that the tenant moved in without the landlord's consent on February 24, 2014. From the moment he moved in the landlord experienced difficulty with him as follows:

He deliberately blocked the front gate entrance to the property with his vehicle only moving it when threatened with towing,

On February 28, 2014 he tampered with the cable and electrical boxes breaking one of them and causing the power to the entire house to be shut off,

He deliberately blocked the landlord's entry to the property with his care after being warned by the police to refrain from doing so.

As a result of the tenant's misconduct the police attended at the request of the landlord and advised the tenant that he must move out.

The landlord testified that the tenant moved out on March 3, 2014 under police supervision and she posted advertisements on Craig's list immediately. However she had difficulty renting the unit until May 2014 because it appeared that the tenant posted advertisements discouraging prospective tenants from renting from the landlord. The landlord presumed it was the tenant who authored the advertisements because, they contained expressions that the tenant had previously used when verbally communicating with the landlord or the police such as "doesn't pay her Hydro and is a scam artist." The tenant filed a letter in his evidence package claiming one of his friends probably authored the advertisements.

The landlord is claiming loss of revenue for April	\$ 895.00
Four days of rent in February (tenant moved in without consent)	\$ 127.84
Paint (damage to wall)	\$ 5.99
Gas (February 28-March 3)	\$ 7.28
Hydro (February 28-March 3)	<u>\$ 13.23</u>
Total Claim	\$ 1,049.34

### Analysis

I find based upon the evidence of the landlord and in absence of any evidence from the tenant, that this tenancy commenced pursuant to the tenancy agreement on February 28, 2014. The tenant without consent of the landlord moved in on February 24, 2014 and accordingly is responsible for the rent for the days leading up February 28, 2014. I find that the tenancy ended by the material breach of the tenant in damaging the landlords' property, shutting off her hydro power and by forcibly blocking her entry. In the alternative because of his wrongful acts I find that the police compelled him to move out and therefore the contract of tenancy has been frustrated. I accept the landlord's testimony that she attempted to mitigate by advertising the unit for re-rent as soon as possible but was hindered in doing so by the malicious conduct of the tenant or persons under his control..

I find that based upon the uncontradicted evidence of the landlord, that all of the items

claimed are reasonably incurred. I find that the landlord has proven a claim totalling \$ 1,049.34. As the landlord has been successful in this matter, I find pursuant to s. 72 of the Act that she is also entitled to recover the \$50.00 filing fee for this proceeding. I order the landlord pursuant to s. 38(4) of the Act to retain the tenant's security and pet deposit inclusive of interest amounting to \$ 695.00 in partial payment. The landlord will receive a Monetary Order for the balance owing. As the tenant did not attend this hearing I have dismissed all of his claims.

### Conclusion

In summary I ordered that the respondent pay to the applicant the sum of \$ \$ 1,049.34 in respect of this claim plus the sum of \$ 50.00 in respect of the filing fee for a total of \$ 1,099.34. I order that the landlord retain the security and pet deposit amounting to \$ 695.00 inclusive of interest. I grant the landlord a Monetary Order in the amount of **\$ 404.34** and a copy of it must be served on the tenant. If the amount is not paid by the tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia and enforced as an Order of that Court. I have dismissed all of the tenant's claims herein.

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: May 13, 2014

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Residential Tenancy Branch

