



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes                      MNDC, MNSD

### Introduction

The Application for Dispute Resolution filed by the Tenant makes the following claims:

- a. A monetary order in the sum of \$3486
- b. An order for the return of the security deposit.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the landlord by mailing, by registered mail to where the landlord resides. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to a monetary order for the reduced value of the tenancy and if so how much?
- b. Whether the tenant is entitled to recover the cost of the filing fee?

### Background and Evidence

The tenancy began on June 1, 2014. The present rent is \$930 per month payable in advance on the first day of each month. The tenant testified she paid a security deposit of \$465. The landlord testified the tenant paid a security deposit of \$450.

At the end of September 2016 the landlord served a 2 month Notice to End Tenancy on the Tenant for landlord use. The tenant filed an application seeking an order to cancel the 2 month Notice to End Tenancy which was heard on December 5, 2016. The arbitrator dismissed the tenant's application to cancel the Notice and granted the landlord an Order for Possession. The

landlord obtained a Writ of Possession from the Supreme Court on December 12, 2016 and the Bailiff enforced the Writ on December 15, 2016.

At that time the landlord returned \$450 being the security deposit and \$210 being the balance of rent paid for November minus \$270 being the amount owed for September and \$450 being the over-holding rent for the period December 1, 2016 to December 16, 2016.

#### Analysis

With regard to each of the tenant's claims I find as follows:

- a. Neither party provided the Branch with a copy of the tenancy agreement. After hearing the disputed testimony I determined the tenant paid a security deposit of \$450. The arbitrator in the previous arbitration came to a similar conclusion. The tenant failed to provide evidence to contradict that determination. As a result the tenant's claim for \$15 of the security deposit is dismissed.
- b. I dismissed the tenant's claim for the doubling of the security deposit as I determined the landlord returned the full security deposit on the day the tenancy ended.
- c. I dismissed the tenant's claim of \$720 for reimbursement of rent paid. I determined the landlord had the right to deduct the rent that was owed for September in the sum of \$270 and over-holding rent for December in the sum of \$450.
- d. I dismissed the claim of \$356 for storage fees. The landlord acted legally in obtaining a Writ of Possession from the Supreme Court of British Columbia and enforcing the Writ through the use of a Bailiff. There is no basis for awarding storage fees to the tenant.
- e. I dismissed the tenant's claim of \$1860 for being homeless for 2 months. The landlord acted legally in obtaining a Writ of Possession and the Bailiff and the tenant is not entitled to this claim.

#### Conclusion:

In conclusion I dismissed the Tenant's claim without leave to re-apply.

**This decision is final and binding on the parties.**

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: February 20, 2017

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Residential Tenancy Branch

