



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, MNR, MNSD, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed that the landlord served the tenants with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on October 3, 2017. The landlord has also submitted a copy of the Canada Post Customer Receipt and Tracking labels for each tenant as confirmation. The tenant, I.R. (the tenants) confirmed that no documentary evidence was provided. I accept the undisputed affirmed evidence of both parties and find that both parties have been properly served as per sections 88 and 89 of the Act.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent, for money owed or compensation for damage or loss and recovery of the filing fee?

Is the landlord entitled to retain all or part of the security deposit?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on February 15, 2017 on f a fixed term tenancy ending on February 15, 2018 as shown by the submitted copy of the signed tenancy agreement dated January 22, 2017. The monthly rent was \$1,890.00 payable on the 15<sup>th</sup> day of each month. A security deposit of \$945.00 was paid on January 27, 2017. No condition inspection reports for the move-in or the move-out were completed.

The landlord seeks an amended monetary claim of \$2,532.48 which consists of:

\$97.60	Utilities, Water June 14-July13/2017
\$117.66	Utilities, Water July 13-August 16/2017
\$55.37	Utilities, Water August 16-September 1/2017
\$711.85	Utilities, Hydro
\$200.00	Garbage Removal
\$200.00	General Cleaning
\$1,150.00	Unpaid Rent, August 15 – September 15, 2017

The landlord claims that the tenant failed to pay August 15-September 15, 2017 rent of \$740.00; utilities for hydro and water; unpaid rent of \$1,150.00 for August 15 to September 15, 2017; garbage removal (furniture) and general cleaning.

Both parties confirmed that the tenants vacated the rental unit as a result of a 10 Day Notice to End Tenancy issued for Unpaid Rent (the 10 Day Notice) dated August 21, 2017. The landlord claims that the rental unit was left dirty which required cleaning and garbage left (furniture) which required removal. The landlord seeks compensation for the unpaid utilities, hydro and water as outlined in the submitted invoices. The landlord also seeks compensation for the landlord's own time in removing garbage/furniture left by the tenants and for cleaning of the rental premises. The landlord clarified that she spent a total of 13 hours over a 2 day period (8 hours, 1st day and 5 hours, 2<sup>nd</sup> day). The landlord states that this would equate to approximately \$15.00 an hour for labor.

The tenants dispute all of the landlord's claims except for the payment of \$740.00 of rent for August 15, 2017 as claimed by the landlord. The tenants also clarified that they dispute the remaining items of claim by the landlord in that there was no garbage/furniture left by the tenants after vacating and that the rental unit was left clean.

The tenants also argue that there were issues with excessive utility charges due to usage by the basement and the water leak that was not fixed by the landlord.

The landlord disputes these claims stating that there were no excessive utility charges (hydro and water). The landlord has submitted the invoices for each of the items claimed for utilities. The landlord also disputes that there were no water leaks and that the rental premises was only occupied by the tenants. No one else was living in the rental premises. In support of the landlord's claims, the landlord has provided 11 photographs of the rental unit condition at the end of tenancy, water bills, hydro bills and an email from the tenant acknowledging acceptance of a \$200.00 cleaning charge.

### Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

I accept the affirmed testimony of both parties and find on a balance of probabilities that I prefer the evidence of the landlord over that of the tenants. I accept the undisputed evidence of both parties regarding the unpaid rent of \$1,050.00. The tenant confirmed in his direct testimony that only rent of \$740.00 for August 15, 2017 was paid to the landlord for the \$1,890.00 owed, leaving arrears totalling \$1,150.00 as claimed by the landlord. The tenants vacated the rental unit in response to a 10 Day Notice issued by the landlord. Although the tenants have disputed the landlord's monetary claims, I find that the landlord has provided sufficient evidence of unpaid utilities (hydro and water) based upon the submitted invoices. The tenants' argument in this regard is that the invoices being issued were for excessive usage that they disputed. However, this was disputed by the landlord and the tenant failed to provide any supporting evidence of this claim. The landlord has established a total monetary claim of \$2,132.48.

On the landlord's remaining two items of claim for garbage removal (\$200.00) and cleaning (\$200.00), I find that the landlord has failed. The tenants have disputed these claims stating that the rental unit was left empty and clean and the amounts sought are excessive without support. The landlord has provided 11 photographs of the rental unit condition at the end of tenancy, but the landlord has failed to provide sufficient evidence to satisfy me of an actual amount for compensation. The landlord relied solely on her direct testimony regarding the monetary amounts that 13 hours was taken to clean over a 2 day period and that two persons were paid \$100.00 for moving furniture for the landlord. I find that this is inconsistent with the landlord's claims. On this basis, I find on a balance of probabilities that landlord has failed to meet her burden of proof. These portions of the landlord's claim are dismissed.

The landlord has established a total monetary claim of \$2,132.48. Having been successful, the landlord is entitled to recovery of the \$100.00 filing fee. I also authorize the landlord to retain the \$945.00 security deposit in partial satisfaction of these claims and grant the landlord a monetary order for the balance due of \$1,287.48.

### Conclusion

The landlord is granted a monetary order for \$1,287.48.

This order must be served upon the tenants. Should the tenants fail to comply with the order, the order may be filed in the Small Claims Division of the Provincial Court of British Columbia 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: May 01, 2018

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Residential Tenancy Branch