



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes            MNDCLS, MNRLS, FFL

### Introduction

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

- a Monetary Order for unpaid rent and damages pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this teleconference hearing, which lasted approximately 15 minutes. The line remained open throughout the hearing. The landlord attended and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that they served the landlord's application for dispute resolution dated December 14, 2017 on the tenant by registered mail sent to an address provided by the tenant at the start of the tenancy. The landlord said that the tenant moved out of the rental unit on October 1, 2017. The landlord said that the tenant did not provide a forwarding address but they had given a home address on their rental application indicating that this was their permanent address to be used as a forwarding address when the tenancy ended. A copy of the Rental Application form completed by the tenant was submitted into written evidence.

I accept the evidence that the tenant provided a permanent address on their Rental Application form that is meant to be used as the forwarding address when the tenancy ended. I accept the undisputed evidence of the landlord that they sent their application for dispute resolution to the address provided by the tenant by registered mail on December 14, 2017. Pursuant to sections 88, 89 and 90 of the Act, I find that the tenant was deemed served with the landlord's application and evidence on December 19, 2017, five days after mailing.

### Issue(s) to be Decided

Is the landlord entitled to a monetary award as claimed?

Is the landlord entitled to recover the filing fee from the tenant?

### Background and Evidence

The landlord gave undisputed evidence regarding the following facts. This fixed term tenancy began in December, 2016 and was scheduled to end on December 1, 2017. The monthly rent was \$1,750.00 payable on the first of each month. A security deposit of \$875.00 was collected at the start of the tenancy and is still held by the landlord.

The landlord said that the tenant vacated the rental unit on October 1, 2017 after giving notice on September 22, 2017. A copy of the email correspondence from the tenant was submitted into written evidence. The landlord said that the tenant did not pay rent for October, 2017.

The landlord gave evidence that the tenant incurred a smoking fine of \$200.00 from the strata corporation and a fire inspection fee of \$71.14 which remains outstanding. The landlord submitted the strata ledger and correspondence between the parties as evidence of the outstanding amount owing.

### Analysis

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the *Act*, regulations or a tenancy agreement. 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 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. The claimant also has a duty to take reasonable steps to mitigate their loss.

I accept the undisputed evidence of the landlord that the tenant incurred a smoking fine and fire inspection fee of \$200.00 and \$71.14 respectively. I accept the evidence that the monthly rent is \$1,750.00. I find that the tenant first gave notice on September 22, 2017 of their intention to end the tenancy and pursuant to sections 45(2)(a) and 26 were obligated to pay rent in the amount of \$1,750.00 on October 1, 2017 but failed to do so. I therefore find that the landlord is entitled to a monetary award in the amount of \$2,021.14.

As the landlord's application was successful the landlord is also entitled to recover the filing fee for their application.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's \$875.00 security deposit in partial satisfaction of the monetary award issued in the landlord's favour.

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$1,246.14 under the following terms, which allows the landlord to recover unpaid rent, strata fines and the filing fee for their application:

Item	Amount
Unpaid Rent October 2017	\$1,750.00
Smoking Fine	\$200.00
Fire Inspection Fee	\$71.14
Filing Fees	\$100.00
Less Security Deposit	-\$875.00
<b>Total Monetary Order</b>	<b>\$1,246.14</b>

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: June 26, 2018

---

Residential Tenancy Branch