



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **FFL MNDL-S MNRL-S**

### Introduction

This review hearing was convened in response to a review consideration decision granted pursuant to section 79 of the *Act*.

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

- a Monetary Order pursuant to section 67 of the *Act*;
- an Order to retain the security or pet deposit pursuant to section 38 of the *Act*, and
- a return of the filing fee pursuant to section 72 of the *Act*.

The landlord and counsel for the tenants' S.H. attended the hearing by way of conference call. All parties present were given a full opportunity to be heard, to present testimony and to make submissions.

S.H. said the landlord was provided with the application for dispute in person on September 14, 2018, following a successful application for review consideration. Pursuant to section 89 of the *Act*, the landlord is found to have been duly served with the tenants' application for dispute following the review consideration decision.

The landlord said he received some evidence from the tenants in the form of a computer disk that was blank. *Rule of Procedure 3.10.1* states as follows, "to ensure a fair, efficient and effective process, where a party submits digital evidence, identical digital evidence and an accompanying description must be submitted through the Online Application for Dispute Resolution or Dispute Access Site, directly to the Residential Tenancy Branch or through a Service BC Office, and be served on each respondent." After having reviewed the evidence uploaded by the tenant, I find a description of the digital evidence provided to the landlord was included with the tenants' evidentiary package as is required pursuant to *Rule of Procedure 3.10.1*. As the original application was that of the landlord, the burden of proof is placed on the

applicant to demonstrate his entitlement to a monetary award. I therefore find that, while technical issues may have prevented the landlord from accessing the digital evidence, a comprehensive description of the evidence was presented to him, and did not prevent him from bringing forward his application for dispute, nor did it prejudice him from presenting his application.

#### Issue(s) to be Decided

Is the landlord entitled to a monetary award? Can the landlord withhold the tenants' security deposit?

Can the landlord recover the filing fee?

#### Background and Evidence

Counsel for the tenants explained this tenancy began in May 2017. Rent was \$1,000.00 per month and a security deposit of \$500.00 paid at the outset of the tenancy continues to be held by the landlord.

The landlord explained he was seeking a monetary award of \$785.12 and to retain the tenants' security deposit in partial satisfaction for this award. The landlord confirmed receipt of the tenants forwarding address after it was sent to him by Canada Post Registered Mail on January 18, 2018. The landlord said he applied for dispute resolution to retain the tenants' security deposit and for a monetary award the following day.

The landlord's application explained he was seeking compensation related to a broken faucet and heating knob, and for the labour associated with repairing the faucet. In addition the landlord said the tenants failed to provide him with one month's notice to end tenancy and needed to repair a broken fridge drawer following the conclusion of the tenancy. The landlord said all of these matters caused him to suffer loss of one weeks rent after the tenants had vacated the property.

Counsel for the tenants said her clients had not received any portion of the landlord's application for dispute resolution, while both parties alleged the other to have presented a falsified copy the condition inspection report. Counsel acknowledged the faucet was slightly damaged at the conclusion of the tenancy but said this item was merely loose and did not require a complete replacement. Counsel stated no move-in or move-out

inspections were performed by the landlord and alleged the reports submitted to evidence by the landlord was falsified.

### 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 entitlement to a claim for a monetary award.

The landlord argued he was entitled to a monetary award of \$785.12 as a result of a broken faucet, labour associated with repairing the faucet, a heating knob, a broken fridge drawer and because of an inability to rent the unit for one week following the tenants' departure from the home.

Counsel for the tenants alleged the contents of the condition inspection reports were falsified by the landlord and stated no condition inspection was performed at the outset of the tenancy, making it impossible to determine the state of the rental unit.

After having considered the oral testimony of both parties and having reviewed the evidence submitted, I find the landlord has sufficiently demonstrated he is entitled to a monetary award related to the replacement of a faucet and the associated labour required to replace it. I accept the landlord's submissions and evidence that the faucet was broken during the tenancy and find the tenants' submissions to provide insignificant detail related to degree to which the faucet was "loose." Little information was provided in the landlord's related to the other portions of his application for which he seeks compensation; specifically the broken fridge drawer and the loss of rental income. No receipts or repair invoices were provided by the landlord demonstrating any loss related to the fridge drawer, while no information was provided in the landlord's evidentiary package documenting rental opportunities that were lost.

Using the offsetting provisions contained in section 72 of the *Act*, I allow the landlord to offset the monetary award granted in his favour, by retaining the tenants' security deposit.

Conclusion

I issue a Monetary Order of \$10.12 in favour of the landlord as follows:

Item	Amount
Replacement of Faucet	\$291.18
Replacement of Knob for heater	18.94
Labour	100.00
Return of Filing Fee	100.00
Less Security Deposit	(-500.00)
<b>Total =</b>	<b>\$10.12</b>

The landlord is provided with a Monetary Order in the above terms and the tenants must be served with this Order as soon as possible. Should the tenants 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: October 5, 2018

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Residential Tenancy Branch