



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND MNDC MNR FF

### Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on April 27, 2018 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage to the unit, site, or property; and
- a monetary order for money owed or compensation for damage or loss;
- a monetary order for unpaid rent; and
- an order granting recovery of the filing fee.

The Landlord attended the hearing on his own behalf. The Tenant A.G. attended the hearing on his own behalf. The Tenant J.C. was represented at the hearing by his mother, S.C. The Landlord, A.G., and S.C. provided affirmed testimony.

The Landlord testified the Application package and documentary evidence were served of the Tenants in person. The Tenant A.G. and S.C. acknowledged receipt. Pursuant to section 71 of the *Act*, I find that these documents were sufficiently served for the purposes of the *Act*.

The Tenants did not submit documentary evidence in response to the Application.

The parties were provided with a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

1. Is the Landlord entitled to a monetary order for damage to the rental unit?
2. Is the Landlord entitled to a monetary order for money owed or compensation for damage or loss?
3. Is the Landlord entitled to a monetary order for unpaid rent?
4. Is the Landlord entitled to an order granting recovery of the filing fee?

### Background and Evidence

The parties agreed the tenancy began on July 1, 2017. The tenancy ended when the Tenant vacated the rental unit on May 1, 2018. Rent in the amount of \$1,300.00 per month was due on the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$650.00, which the Landlord holds.

The Landlord's monetary claim was summarized in a Monetary Order Worksheet. First, the Landlord claimed \$1,827.24.00 for restoration work to that included repairs to drywall and exterior siding, and to address mold in the rental property. According to the Landlord, the Tenants left debris outdoors, which blocked a drainage pipe. As a result, water entered the rental property. However, the extent of the damage was not noticed until sometime later. The Landlord testified the work continued from about January 12, 2018 to early February 2018. In support, the Landlord submitted a detailed estimate and an invoice dated March 29, 2018.

In response to questions from S.C., the Landlord confirmed his losses were not covered by insurance because his deductible is \$5,000.00. The Landlord also testified that work was done to the upper unit because water had leached into that area.

In reply, the Tenant A.G. acknowledged the Tenants' belongings may have obstructed drainage. However, S.C. identified mitigating factors such as the size of the drain, the grade of the driveway, the amount of rainfall received, and the location of a downspout on the property. S.C. also raised an issue concerning the dates on the estimate and invoice.

Second, the Landlord claimed \$190.00 for outstanding rent for the month of March 2018. The parties agreed this amount was withheld by the Tenants because they had paid BC Hydro charges for the upper and lower suites. The Landlord testified he did not have a problem with the deduction but made the claim because he required receipts for

tax purposes that were not provided by the Tenants. The Landlord referred to text messages submitted in support.

Third, the Landlord claimed \$1,300.00 for rent that was not paid when due on April 1, 2018. Both the Tenant A.G. and S.C. confirmed rent was not paid when due on April 1, 2018, even though the Tenants remained in the rental unit until May 1, 2018.

Fourth, the Landlord claimed \$158.00 for travel expenses to attend the rental property. The Landlord testified travel was required because he had not received the rent payment on April 1, 2018, and was unable to contact the Tenants.

In reply, S.C. questioned the propriety of the Landlord claiming travel expenses for this purpose.

Finally, the Landlord sought to recover the \$100.00 filing fee paid to make the Application.

### Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 67 of the *Act* empowers me to order one party to pay compensation to the other if damage or loss results from a party not complying with the *Act*, regulations or a tenancy agreement.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided for in sections 7 and 67 of the *Act*. An applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and
4. That the party making the application did what was reasonable to minimize the damage or loss.

In this case, the burden of proof is on the Landlord to prove the existence of the damage or loss, and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Tenants. Once that has been established, the Landlord must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Landlord did what was reasonable to minimize the damage or losses that were incurred.

With respect to the Landlord's claim for \$1,827.24, I find the rental property sustained water damage when the Tenants belongings clogged a drain. I accept the forthright testimony of the Tenant A.G., who did not dispute the likely cause of the damage. Although S.C. provided several factors that could have contributed to the damage, I find there is insufficient evidence before me to confirm they had an appreciable impact on the damage that occurred. I am satisfied the Landlord incurred the expense. Therefore, I find the Landlord has demonstrated an entitlement to a monetary award of \$1,827.24.

With respect to the Landlord's claim for \$190.00 for outstanding rent for the month of March 2018, I find there is insufficient evidence before me to find the Landlord is entitled to recover this amount. I note the Landlord did not object to the deduction for BC Hydro charges, only the failure of the Tenants to provide receipts.

I also note the testimony of S.C. who advised that the Tenants were required to collect utilities from the occupants of the other rental unit.

With respect to the Landlord's claim for \$1,300.00 for rent that was not paid when due on April 1, 2018, I find the Landlord has demonstrated an entitlement to recover this amount. Both the Tenant A.G. and S.C. acknowledged rent was not paid when due on April 1, 2018, and that the Tenants remained in the rental unit until May 1, 2018.

With respect to the Landlord's claim for \$158.00 for travel expenses to fly to the rental property, I find there is insufficient evidence before me to grant the amount claimed. The Landlord's testimony confirmed he flew to the rental property because rent had not been paid and he was unable to contact the Tenants. However, I find this is an insufficient basis upon which to claim travel expenses.

Having been successful, I find the Landlord is entitled to recover the filing fee paid to make the Application.

Pursuant to section 67 of the *Act*, I find the Landlord is entitled to a monetary order in the amount of \$2,577.24, which has been calculated as follows:

<b>Claim</b>	<b>Amount</b>
Remediation work:	\$1,827.24
Unpaid rent (April 2018):	\$1,300.00
Filing fee	\$100.00
<i>LESS</i> security deposit:	(\$650.00)
<b>TOTAL:</b>	<b>\$2,577.24</b>

### Conclusion

The Landlord is granted a monetary order in the amount of \$2,577.24. The order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: November 1, 2018

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Residential Tenancy Branch