



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

MNDL-S, MNRL-S, FFL

### Introduction

A hearing was convened on October 26, 2018 in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for damage to the rental unit, for a monetary Order for unpaid rent, to keep all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

The hearing on October 26, 2018 was adjourned for reasons outlined in my interim decision of October 29, 2018. The hearing was reconvened on December 10, 2018 and was concluded on that date.

In the interim decision I concluded that some evidence submitted by the Landlord should be accepted as evidence for these proceedings.

In interim decision I authorized the Landlord to re-serve the following documents:

- a copy of the tenancy agreement, which the Landlord refers to as a lease agreement;
- a copy of the condition inspection report, dated August 15, 2017;
- an invoice for cleaning; and
- a receipt for weather stripping.

At the hearing on December 10, 2018 the Landlord stated that these four documents were served to the Tenants, by registered mail, on October 26, 2018. The female Tenant, hereinafter referred to as the Tenant, acknowledged receiving these documents and they were accepted as evidence for these proceedings.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. The parties were advised of their legal obligation to speak the truth during these proceedings.

### Issue(s) to be Decided

Is the Landlord entitled to compensation for damage to the rental unit, to compensation for unpaid rent, and to keep all or part of the security deposit?

### Background and Evidence

The Landlord and the Tenant agree that:

- the tenancy began on August 15, 2017;
- the tenancy ended, by mutual agreement, on April 01, 2018,
- rent of \$2,100.00 was due by the fourteenth day of each month;
- a security deposit of \$1,050.00 was paid; and
- a pet damage deposit of \$1,050.00 was paid.

The Landlord contends that rent was paid at the end of each rental period. He stated that rent was paid in the following manner:

- September 18, 2017 - \$2,100.00 was paid for the period between August 15, 2017 and September 14, 2017;
- October 16, 2017 - \$2,100.00 was paid for the period between September 15, 2017 and October 14, 2017;
- November 18, 2017 - \$2,100.00 was paid for the period between October 15, 2017 and November 14, 2017;
- December 16, 2017 - \$2,100.00 was paid for the period between November 15, 2017 and December 14, 2017;
- January 20, 2018 - \$1,900.00 was paid for the period between December 15, 2017 and January 14, 2018 (agreed upon rent reduction of \$200.00); and
- February 17, 2018 - \$2,100.00 was paid for the period between January 15, 2018 and February 14, 2018.

The Tenant contends that rent was paid at the beginning of each rental period. She stated that rent was paid in the following manner:

- August 15, 2017 – \$2,100.00 was paid for the period between August 15, 2017 and September 14, 2017;
- September 18, 2017 - \$2,100.00 was paid for the period between September 15, 2017 and October 14, 2017;
- October 16, 2017 - \$2,100.00 was paid for the period between October 15, 2017 and November 14, 2017;
- November of, 2017 - \$2,100.00 was paid for the period between November 15, 2017 and December 14, 2017;
- December 16, 2017 - \$2,100.00 was paid for the period between December 15, 2017 and January 14, 2018;
- January of, 2018 - \$1,900.00 was paid for the period between January 15, 2018 and February 14, 2018 (agreed upon rent reduction of \$200.00); and
- February 17, 2018 - \$2,100.000 was paid for the period between February 15, 2018 and March 14, 2018.

The Landlord is seeking compensation, in the amount of \$50.00, for cleaning the rental unit. The Landlord submitted photographs, which the Agent for the Landlord stated were taken at the end of the tenancy, which show the rental unit required cleaning. The Landlord submitted an invoice to show that the Landlord incurred this expense.

The Landlord and the Tenant agree that rent was always paid in cash. The Landlord stated that he did not always provide the Tenant with a rent receipt but he provided the Tenant with receipts for the rent that was paid in September, October, November, and December of 2018. The Tenant stated that she signed some receipts when she paid her rent but she did not receive a copy of those receipts.

The Landlord submitted a copy of the rent receipts he completed as evidence. The Tenant stated that she has reviewed those receipts and believes they are accurate. The receipts submitted indicate:

- \$2,100.00 in rent for August/September, received on September 18, 2017;
- \$2,100.00 in rent for September/October, received on October 16, 2017;
- \$2,100.00 in rent for October/November, received on November 18, 2017; and
- \$2,100.00 in rent for November/December, received on December 16, 2017;

The Landlord is seeking compensation for unpaid rent for the period between February 15, 2018 and April 01, 2018, in the amount of \$3,150.00.

The Landlord and the Tenant agree that the Tenants were required to pay utilities during this tenancy. The Landlord submitted utility bills totaling \$259.78. The Tenant

agreed that the Tenants were obligated to pay these bills and that they have not been paid.

The Landlord is seeking compensation of \$31.09 for damaged weather stripping. The Tenant acknowledged that her cat damaged some weather stripping during his tenancy and that she did not repair the damage. The Landlord submitted a receipt for this expense.

The Landlord is seeking compensation of \$262.50 for cleaning the rental unit. The Landlord submitted photographs of the rental unit that were taken after the rental unit was vacated, which show the rental unit required cleaning.

The Tenant agreed that cleaning was required but that she had insufficient time to clean the unit. She stated that the Landlord agreed to complete the final inspection at 2:00 p.m. on April 01, 2018; that he arrived at noon; and that his early arrival prevented her from completing her cleaning.

The Landlord stated that he agreed to complete the final inspection at 2:00 p.m. on April 01, 2018; that he arrived at 2:00 p.m.; and that the cleaning was not completed by that time.

### Analysis

I favour the testimony of the Landlord, who contends that rent was paid at the end of each rental period over the testimony of the Tenant, who contends that rent was paid at the beginning of each rental period. In reaching this conclusion I was heavily influenced by the rent receipts that were submitted in evidence.

I find that the rent receipt that indicates the rent paid on September 18, 2017 was for rent for August/September corroborates the Landlord's submission this payment was for the previous rental month and refutes the Tenant's submission it was for the upcoming rental month.

I find that the rent receipt that indicates the rent paid on October 16, 2017 was for rent for September/October corroborates the Landlord's submission this payment was for the previous rental month and refutes the Tenant's submission it was for the upcoming rental month.

I find that the rent receipt that indicates the rent paid on November 18, 2017 was for rent for October/November corroborates the Landlord's submission this payment was for the previous rental month and refutes the Tenant's submission it was for the upcoming rental month.

I find that the rent receipt that indicates the rent paid on December 16, 2017 was for rent for November/December corroborates the Landlord's submission this payment was for the previous rental month and refutes the Tenant's submission it was for the upcoming rental month.

As I have concluded that the February 17, 2018 of \$2,100.00 was paid for the period between January 15, 2018 and February 14, 2018 and there is no evidence that any rent was paid after February 17, 2018, I find that the Tenant still owes \$3,150.00 in rent for the period between February 15, 2018 and April 01, 2018.

On the basis of the undisputed evidence that the Tenants were obligated to pay utility charges of \$259.78, which have not been paid, I find that the Landlord is entitled to compensation of \$259.78 for utilities.

When making a claim for damages under a tenancy agreement or the *Act*, the party making the claim has the burden of proving their claim. Proving a claim in damages includes establishing that damage or loss occurred; establishing that the damage or loss was the result of a breach of the tenancy agreement or *Act*; establishing the amount of the loss or damage; and establishing that the party claiming damages took reasonable steps to mitigate their loss.

On the basis of the undisputed evidence I find that the Tenants failed to comply with section 37(2) of the *Act* when the Tenants failed to repair weather stripping that was damaged during the tenancy. I therefore find that the Landlord is entitled to compensation for the cost of repairing the weather stripping, which was \$31.09.

On the basis of the photographs submitted in evidence I find that the Tenants failed to comply with section 37(2) of the *Act* when the Tenants failed to leave the rental unit in reasonable clean condition at the end of the tenancy. When a tenant contends that the landlord prevented the tenant from complying with the *Act*, the burden of proving that submission rests with the tenant. In these circumstances the burden of providing that the Landlord prevented her from cleaning the unit rests with the Tenant.

I find that the Tenant submitted insufficient evidence that the Landlord arrived at the rental unit at noon for the inspection that was scheduled for 2:00 p.m. on April 01, 2018, which prevented her from completing her cleaning. In reaching this conclusion I was heavily influenced by the absence of evidence that corroborates the Tenant's testimony that the Landlord arrived at noon or that refutes the Landlord's testimony that he arrived at 2:00 p.m.

As the rental unit required cleaning at the end of the tenancy and the Tenant has failed to establish that the Landlord prevented her from cleaning the unit, I find that the Landlord is entitled to compensation for cleaning the unit, in the amount of \$262.50.

I find that the Landlord's Application for Dispute Resolution has merit and that the Landlord is entitled to recover the fee for filing this Application for Dispute Resolution.

### Conclusion

The Landlord has established a monetary claim, in the amount of \$3,803.37, which includes \$3,150.00 in rent; \$259.78 for utilities; \$31.09 for repairing weather stripping; \$262.50 for cleaning; and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to retain the Tenants' security and pet damage deposits of \$2,100.00 in partial satisfaction of this monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance \$1,703.37. In the event the Tenants do not voluntarily comply with this Order, it may be served on the Tenants, filed with the Province of British Columbia Small Claims 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 *Act*.

Dated: December 12, 2018

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Residential Tenancy Branch