



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: Tenant: MNDC
 Landlord: MNRL-S MND MNDC FFL

Introduction

This hearing was convened in response to cross-applications by the parties for dispute resolution.

The tenant originally filed their application April 17, 2019 pursuant to the *Residential Tenancy Act* (the Act) for a monetary order for \$910.00.

The landlord originally filed their application April 26, 2019 and subsequently *amended* their original application May 15, 2019 for Orders as follows;

1. A monetary order for damage and loss – \$6035.50 - Section 67
2. An Order to recover the filing fee for this application (\$100) - Section 72.

Both parties attended the hearing and were given an opportunity to discuss and settle their dispute to no avail, present *relevant* evidence, and make *relevant* submissions. Prior to concluding the hearing both parties acknowledged they had presented all of the *relevant* evidence that they wished to present.

The landlord provided proof of registered mail service to the tenant for their application, evidence and amendment. The tenant acknowledged receiving the landlord's claim and evidence. The landlord acknowledged receiving the tenant's application however did not receive any evidence. The tenant acknowledged not providing any evidence and sought more time to do so, claiming circumstances beyond their control since filing their application prevented them from submitting evidence for this matter.

Preliminary matters

After discussion with the parties and consideration of any prejudice to the landlord the tenant's application was **dismissed**, with leave to reapply.

Via their testimony, I accept the landlord's oral amendment to their monetary claim seeking solely the following from their previously amended monetary claim dated May 15, 2019, as follows,

- Court Bailiff costs pursuant to enforcement of Order of Possession	\$4228.19
- Removal / disposal of tenant's refuse and castoffs	\$904.31
- filing fee	\$100.00

The hearing proceeded on the merits of the landlord's application.

Issue(s) to be Decided

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The undisputed relevant evidence in this matter is as follows. The subject tenancy began July 01, 2014 as a written tenancy agreement. The payable monthly rent was \$1700.00 due in advance on the 1st of every month. At the outset of the tenancy the landlord collected a security deposit of \$850.00 which they retain in trust.

The tenant's occupation of the rental unit ended April 15, 2019 pursuant to the actions of a court authorized bailiff following an Order of Possession issued by the Director on April 03, 2019. The parties agreed that as a result the tenant left behind an abundance of personal items, castoffs and miscellaneous refuse which the landlord removed and disposed.

The landlord provided an invoice by the court appointed Bailiff in the requested amount of \$4228.19. The landlord also submitted an invoice for removing and disposing of the tenant's effects and refuse in the amount of \$904.31.

Analysis

A copy of the Residential Tenancy Act, Regulations and other publications are available at www.gov.bc.ca/landlordtenant.

On preponderance of the evidence submitted and on balance of probabilities I find as follows.

I find the landlord has submitted sufficient evidence to support their claim for removal and disposing of the tenant's items. Therefore I grant the landlord their claim in the

amount of **\$904.31**.

I find that the landlord's cost to enforce the director's Order of Possession is a compensable expense; therefore I grant the landlord their claim in the amount of **\$4228.19**

As the landlord was successful in their application I find them entitled to recover their filing fee of \$100.00. The security deposit will be off-set from the award made herein.

Calculation for Monetary Order

Removal and disposal of tenant's effects	\$904.31
Enforcement of Order of Possession / Cost of court appointed bailiff	\$4228.19
Filing Fee for the cost of this application	\$100.00
<i>Less Security Deposit held in trust</i>	<i>- \$850.00</i>
Total Monetary Award to landlord	\$4382.50

I Order that the landlord retain the security deposit of \$850.00 in partial satisfaction of the claim and I grant the landlord an **Order** under Section 67 of the Act for the balance due of **\$4382.50**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

Conclusion

The landlord's application is granted in the above terms. The tenant's application is dismissed, with leave to reapply.

This Decision is final and binding.

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: July 24, 2019

Residential Tenancy Branch