



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDCL, FFL

### Introduction

The landlord applied for dispute resolution on August 10, 2019 against his former tenant for various compensation, pursuant to sections 67 and 72 of the *Residential Tenancy Act* (“Act”). He sought compensation for bailiff costs related to an earlier dispute involving the tenant, for unpaid hydro bills, and for recovery of the filing fee.

A dispute resolution hearing was held on December 3, 2019 and the landlord attended. The tenant did not. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

Regarding service of the Notice of Dispute Resolution Proceeding package (the “package”), the landlord testified that he served the package by way of Canada Post registered mail and he included the tracking number. The tenant’s address was the one that he provided to the landlord. In addition, the landlord tried to make the tenant aware of the hearing by sending him an email and a text message. Mail, text and emails went unanswered. Given the above, I find that the landlord served the package on the tenant in compliance with section 89 of the Act.

I have reviewed evidence submitted that met the *Rules of Procedure* and to which I was referred but have only considered evidence relevant to the issue of this application.

### Issue

Whether the landlord is entitled to compensation as sought in his application, including recovery of the filing fee.

### Background and Evidence

The landlord testified that as a result of a prior dispute resolved in his favour by a Residential Tenancy Branch arbitrator, he was required to use the services of a bailiff to peacefully evict the tenant on March 18, 2019. This cost him \$1,526.73; a copy of the bailiff's invoice was submitted into evidence.

The written tenancy agreement, a copy of which was tendered into evidence, indicated that the tenant was responsible for paying 70% of the gas bill. However, the tenant did not pay this over a period of almost a year, ultimately accumulating \$1,363.80 in BC Hydro and Fortis BC debt owing. Copies of utilities bills, along with a worksheet of calculations by the landlord, were submitted in support of the landlord's claim.

Finally, the landlord noted that the tenant's security deposit was previously awarded, and kept, as per the last arbitrator's decision; the security deposit is not a factor here.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Section 7 of the Act states that if a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results. Further, section 67 of the Act states that if damage or loss results from a party not complying with the Act, the regulations or a tenancy agreement, an arbitrator may determine the amount of, and order that party to pay, compensation to the other party.

First, the tenant's original noncompliance with the Act resulted in the landlord incurring costs related to the execution of a writ of possession. As such, the tenant must compensate the landlord for the loss that results. In this case, that loss is \$1,526.73. But for the tenant's breach of the Act the landlord would not have incurred this loss.

Second, the tenant was required by the tenancy agreement to pay for a percentage of the utilities. He did not, and as such, breached section 7 of the Act, which resulted in the landlord incurring further loss in the amount of \$1,363.80. But for the tenant's failure to comply with the tenancy agreement, the landlord would not have borne this loss.

The landlord's testimony — that is, his oral evidence — is supported by documentary evidence which establishes the exact dollar amounts of the landlord's monetary losses.

Taking into consideration the undisputed oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving his claim for compensation in the amount of \$2,890.53.

Finally, section 72(1) of the Act provides that an arbitrator may order payment of a fee under section 59(2)(c) by one party to a dispute resolution proceeding to another party. A successful party is generally entitled to recovery of the filing fee. As the landlord was successful, I grant his claim for reimbursement of the filing fee of \$100.00.

### Conclusion

Pursuant to section 67 of the Act, I hereby grant the landlord a monetary order in the amount of \$2,990.53, which must be served on the tenant. The order may be filed in, and enforced as an order of, the Provincial Court of British Columbia.

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 3, 2019

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Residential Tenancy Branch