



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

Real Property Management Pinnacle Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

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

### Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 72 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

The landlord's agent BS attended ("the landlord"). The landlord had the opportunity to call witnesses and present affirmed testimony and written evidence. The hearing process was explained, and an opportunity was given to ask questions about the hearing process.

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional thirty-three minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant was provided.

The landlord testified that the landlord had received an Order of Substituted Service on

November in this matter allowing the landlord to serve the Notice of Hearing and Application for Dispute Resolution upon the tenant by email addressed to an email address used by the tenant in communication with the landlord. The landlord testified the landlord served the documents by the means identified in the Order on November 20, 2019. Further to the Order, the evidence submitted and the landlord's testimony, I find the landlord served the tenant with the Notice of Hearing and Application for Dispute Resolution on November 20, 2019 according to the *Act*.

### Issue(s) to be Decided

Is the landlord entitled to the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 72 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

### Background and Evidence

The landlord provided the following uncontradicted testimony as the tenant did not attend the hearing.

The tenancy for a furnished unit began on May 18, 2019 for monthly rent of \$2,400.00 payable on the first of the month. The tenant provided a security deposit of \$1,200.00 and a pet deposit of \$1,200.00 (together the "deposit" and totalling \$2,400.00) which the landlord holds. The landlord submitted a copy of the signed tenancy agreement.

The tenant has not provided written authorization to the landlord to retain the deposit. The tenant has not provided her forwarding address to the landlord in writing.

The parties signed a condition inspection report at the beginning of the tenancy which indicated that the unit was in good condition in all material respects. A copy of the report was submitted.

The landlord testified that he learned on October 7, 2019 that the tenant had vacated the unit suddenly and without notice. The landlord attended the unit and confirmed the tenant had left without providing keys or a forwarding address to the landlord.

The landlord discovered that the unit had been "ransacked"; many items of value were missing, including furniture, an inventory for which was submitted. The unit was dirty and required considerable subsequent cleaning. The remaining furniture was damaged by pets and covered with pet hair.

The tenant had caused substantial damage to the unit requiring repairs. Chicken wire had been placed around the patio and the landlord assumed this was done to keep pets indoors; the wire had to be removed and disposed of. Walls were damaged and repainting of damaged areas was required. The tenant had disassembled beds, stored them in the garage, requiring the landlord to reassemble before they could be used again.

The landlord testified that a large wall mirror was smashed and submitted a photograph in support of the testimony. The landlord stated that a reasonable valuation of the destroyed item was \$100.00 for which the landlord requested compensation.

The landlord testified that an inventory was made of the missing furniture which, although used, was in good and serviceable condition. The landlord estimated a replacement value for similar used items as \$9,140.00 for which the landlord requested compensation of 50% being \$4,570.00.

The landlord attempted to contact the tenant, but all efforts failed or were rejected by the tenant; the tenant would not return the landlord's calls.

The landlord completed a condition inspection on moving out in the absence of the tenant and submitted a copy as evidence.

The tenant owed outstanding rent to the landlord at the time she vacated in the amount of \$9,100.00 up to and including November 2019. The landlord submitted a ledger in support of the claim for outstanding rent.

The landlord submitted photographs supporting the condition of the unit when the tenant vacated. The landlord submitted invoices in support of each of the additional expenses claimed other than the mirror and furniture mentioned above for which the landlord provided estimates.

The landlord testified that the landlord reported the tenant and the theft to the police who investigated. Neither the tenant nor the missing items have been located.

The landlord clarified the landlord's claim for damages, cleaning, repairs and compensation for the missing items described above, as follows:

ITEM	AMOUNT
Furniture	\$4,570.00
Repairs	\$1,186.50
Cleaning	\$180.00
Mirror	\$100.00
<b>MONETARY CLAIM</b>	<b>\$6,036.50</b>

The landlord clarified his claim with the addition of the outstanding rent as follows:

ITEM	AMOUNT
Monetary claim for damages, cleaning, repairs, missing furniture (above)	\$6,036.50
Outstanding rent	\$9,100.00
<b>TOTAL CLAIM (Damages and rent)</b>	<b>\$15,136.50</b>

The landlord requested authorization to apply the security deposit to the monetary award and to obtain reimbursement of the filing fee as follows:

ITEM	AMOUNT
<b>TOTAL MONETARY CLAIM (above)</b>	<b>\$15,136.50</b>
Filing fee	\$100.00
(Deposit)	(\$2,400.00)
<b>ORDER REQUESTED</b>	<b>\$12,836.50</b>

The landlord requested a monetary order of **\$12,836.50**

### Analysis

I have considered all the submissions and evidence presented to me, including those provided in writing and orally. I will only refer to certain aspects of the submissions and evidence in my findings.

In this section reference will be made to the *Residential Tenancy Act*, the *Residential*

*Tenancy Regulation*, and the *Residential Tenancy Policy Guidelines*, which can be accessed via the Residential Tenancy Branch website at:

[www.gov.bc.ca/landlordtenant](http://www.gov.bc.ca/landlordtenant).

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the *Act*, regulations or a tenancy agreement.

Section 7(1) of the *Act* provided that if a landlord or tenant does not comply with the *Act*, regulation or tenancy agreement, the non-complying party must compensate the other for damage or loss that results.

To claim for damage or loss, the claiming party bears the burden of proof on a balance of probabilities; that is, something is more likely than not to be true. The claimant must establish four elements.

1. The claimant must prove the existence of the damage or loss.
2. Secondly, the claiming party must that the damage or loss stemmed directly from a violation of the agreement or a contravention on the part of the other party.
3. Once those elements have been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.
4. Finally, the claimant has a duty to take reasonable steps to reduce, or mitigate, their loss.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails.

In this case, the onus is on the landlord to prove the landlord is entitled a claim for a monetary award

*Damages: cleaning, repairs, missing items*

I have considered all the evidence submitted by the landlord, including the testimony, the condition inspection report, the inventory, the invoices, the estimates, and the photographs showing the unit needed cleaning and repairs.

Considering the evidence and testimony, I accept the landlord's well-prepared, credible and supported testimony that the unit needed cleaning and repairs when the tenant vacated as the landlord described, the tenant is responsible for the condition and the

damage, and the landlord took all reasonable steps to mitigate expenses. I accept the uncontradicted testimony of the landlord that the tenant took the landlord's possessions without the permission of the landlord; I accept the inventory list as accurate and find the valuation reasonable.

I find the landlord has met the burden of proof on a balance of probabilities with respect to this aspect of the claim and, in the absence of any contrary evidence, I find the landlord is entitled to a monetary award in the amount requested of **\$15,136.50**.

### *Rent*

The landlord testified the tenancy was month-to-month. For a month-to-month, or periodic tenancy agreement, a tenant must serve written notice to end the tenancy and assure that it is received at least one month before the effective date of the notice and before the day that rent is due.

As the tenant failed to provide the required notice, the tenant is responsible to reimburse the landlord for rent for the month of November 2019. I am satisfied based on the landlord's testimony and evidence, that the tenant vacated the unit in the early part of the month, leaving the unit requiring considerable cleaning and repairs before it could be occupied again. I find it is reasonable that the tenant compensates the landlord for rent for the month of November 2019.

I accept the landlord's testimony as supported by the client ledger that the tenant owed the landlord \$9,100.00 for outstanding rent including November 2019.

I accordingly find the landlord has met the burden of proof with respect to this aspect of the claim. I allow the landlord an award of \$9,100.00 for outstanding rent.

### *Security Deposit*

The landlord is authorized to apply the security deposit to the award under section 72.

### *Summary*

As the landlord has been successful in this matter, I award the landlord reimbursement of the filing fee in the amount of \$100.00.

My award to the landlord is summarized as follows:

ITEM	AMOUNT
Total Monetary Award as set out above	\$15,136.50
Filing fee	\$100.00
(Deposit)	(\$2,400.00)
<b>Monetary Order</b>	<b>\$12,836.50</b>

I grant a monetary order to the landlord in the amount of **\$12,836.50**.

### Conclusion

The landlord is entitled to a monetary order in the amount of **\$12,836.50**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) to be 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: April 08, 2020

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Residential Tenancy Branch