



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 1072502 BC LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR, MND, MNDC, MNSD, FFL

### Introduction

On April 14, 2020, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) seeking money owed or compensation for damage or loss; a monetary order for unpaid rent; a monetary order for damage or repairs; and to keep the security deposit.

The matter was set for a conference call hearing. The property owners (“the Landlord”) attended the teleconference hearing; however, the Tenant did not.

On March 30, 2020 the executive Director of the Residential Tenancy Branch ordered that until the state of emergency made on March 18, 2020 is cancelled or expires; a documents of the type described in section 88 or 89 of the Act has been sufficiently given or served on the person in one of the following ways:

- *The document is emailed to the email address that the person to whom the document is to be given or served has routinely used to correspond about tenancy matters from an email address that the person giving or serving the document has routinely used for such correspondence, in which case the document is deemed to have been received three days after it was emailed.*

The Landlord testified that they served the Tenant with the Notice of Dispute Resolution proceeding using email sent on April 17, 2020. The Landlord provided a copy of the email sent to the Tenant which provides that there were five attachments, including the dispute notice.

The Landlord testified that the Landlord used the email address that the Tenant provided, and which address they regularly used to correspond with the Tenant.

Based on the Landlords affirmed testimony and evidence, I find that the Tenant was sufficiently served with notice of the hearing and claims against her. I find that the Tenant was deemed served with the Notice on April 20, 2020, three days after it was sent.

The Landlord was provided with an opportunity to ask questions about the hearing process and was provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

#### Issues to be Decided

- Is the Landlord entitled to a monetary order to recover unpaid rent?
- Is the Landlord entitled to a monetary order for damage or repair costs?
- Is the Landlord entitled to other compensation for damage or loss?
- Can the Landlord keep the security deposit towards their claims?
- Is the Landlord entitled to recover the cost of the filing fee?

#### Background and Evidence

The Landlord testified that the tenancy began on July 10, 2017, on a month to month basis. Rent in the amount of \$1,025.00 was to be paid to the Landlord by the first day of each month. The Tenant paid the Landlord a security deposit of \$500.00. The Landlord provided a copy of the tenancy agreement.

The Landlord testified that he previously received an order of possession for the rental property; however, the Tenant failed to vacate the unit. The Landlord testified that the tenancy ended on March 6, 2020, when a bailiff removed the Tenant and her possessions from the rental property.

#### Unpaid Rent \$205.00

The Landlord is seeking a monetary order for five days of unpaid rent for the month of March 2020. The Landlord testified that the Tenant was evicted from the unit on March 6, 2020. The Landlord testified that the Tenant did not pay any rent for March 2020.

#### Unpaid Utility Bills

The Landlord testified that the tenancy agreement requires the Tenant to pay 50 % of all utility costs. The Landlord testified that Tenant failed to pay her portion of the utility charges. The Landlord is seeking a monetary order in the amount of \$1,331.78 for the unpaid utility charges.

- The Landlord provided a copy of a Hydro bill for the period of October 31, 2019 to December 31, 2019 and January 1, 2020 to February 28, 2020.
- The Landlord provided a copy of a gas bills dated January 2, 2020; January 29, 2020; and March 2, 2020.
- The Landlord provided a copy of a quarterly water invoice dated March 26, 2020
- The Landlord provided a copy a sewer bill from July to September 2019.

#### Damage \$850.00

The Landlord testified that the Tenant was evicted by bailiffs on March 6, 2020 after receiving a writ of possession from the Supreme Court. The Landlord testified that the Tenant's possessions were left on the driveway and the Tenant agreed that she would take her property within 48 to 72 hours. The Landlord stated that the property still remained on the driveway after 10 days. The Landlord hired a person to remove and dispose of the garbage and to clean the rental suite.

The Landlord provided a copy of an invoice in the amount of \$850.00 that the Landlord paid for garbage removal and basement clean-up.

The Landlord provided photographs taken at the end of the tenancy showing the condition and state of repair of the rental unit and the Tenants possessions on the driveway.

#### Compensation for Damage or Loss \$3,265.79

The Landlord is seeking to recover the costs for hiring a bailiff to have the Tenant and her possessions removed from the rental property. The Landlord provided a copy of an invoice from a bailiff service dated March 26, 2020 in the amount of \$3,265.79.

#### Security Deposit

The Landlord is seeking to keep the \$500.00 security deposit in partial satisfaction of the Landlords claims.

### Analysis

The party making a claim for compensation against another party bears the burden of proof. Section 7 of the Act provides that if a Landlord or Tenant does not comply with the Act, the regulations, or their tenancy agreement, the non-complying Landlord or Tenant must compensate the other for damage or loss that results.

To be successful with a claim for compensation an applicant must prove:

1. That the other party breached the Act, regulation or tenancy agreement.
2. That the breach caused the party making the application to incur damages or loss as a result of the breach.
3. The value of the loss; and,
4. That the party making the claim took reasonable steps to minimize the damage or loss.

The Residential Tenancy Policy Guideline # 16 Claims in Damages states:

*An arbitrator may award monetary compensation only as permitted by the Act or the common law. In situations where there has been damage or loss with respect to property, money or services, the value of the damage or loss is established by the evidence provided.*

*A party seeking compensation should present compelling evidence of the value of the damage or loss in question.*

The Residential Tenancy Policy Guideline #1 Landlord & Tenant – Responsibility for Residential Premises states:

*a tenant is generally required to pay for repairs where damages are caused, either deliberately or as a result of neglect, by the tenant or his or her guest.*

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I make the following findings:

### Unpaid Rent

I accept the Landlords' testimony and evidence that the tenant failed to pay the rent owing under the tenancy agreement.

I award the Landlord the amount claimed of \$205.00.

### Unpaid Utilities

I accept the Landlords' testimony and evidence that the Tenant failed to pay her share of the Hydro; Gas; Water and sewer utility charges.

I award the Landlord the amount claimed of \$1,331.78.

### Damage

I have reviewed the photographs provided by the Landlord. I accept the Landlords' testimony and evidence that the rental unit was left very unclean and required cleaning. I also accept the Landlords' testimony that the Tenant abandoned property on the Landlords driveway. I find the Tenant is responsible to reimburse the Landlord for the costs for cleaning and disposal of garbage.

I award the Landlord the amount claimed of \$850.00

### Compensation for Damage or Loss

I accept the Landlords' testimony and evidence that the Tenant failed to vacate the rental unit after the Landlord received an order of possession for the rental property. I find that the Landlord had to hire a bailiff to remove the Tenant and her possessions. I find that the Tenant is responsible to reimburse the Landlord for the bailiff costs.

I award the Landlord the amount claimed of \$3,265.29.

### Security Deposit

I authorize the Landlord to keep the security deposit of \$500.00 towards the monetary awards granted.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a total monetary claim of \$5,752.07 comprised of \$205.00 for unpaid rent; \$1,331.78 for unpaid utilities; \$850 for cleaning costs; \$3,265.29 for bailiff fees; and the \$100.00 fee paid by the Landlord for this hearing. After setting off the security deposit of \$500.00 towards the monetary award of \$5,752.07, I find that the Landlord is entitled to a monetary order in the amount of \$5,252.07. This monetary order may be filed in the Provincial Court (Small Claims) and

enforced as an order of that court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Conclusion

The Landlord has established a monetary claim in the amount of \$5,752.07. I order that the Landlord can keep the security deposit of \$500.00 in partial satisfaction of the Landlords claim.

I grant the Landlord a monetary order in the amount of \$5,252.07.

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: August 27, 2020

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Residential Tenancy Branch