



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **MNDCL, MNRL, 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 attended. The landlord provided affirmed testimony that the landlord served the tenants with the Notice of Hearing and Application for Dispute Resolution by registered mail sent on March 27, 2020, the date of the filing and deemed received by the tenants under section 90 of the *Act* five days later.

The landlord provided the Canada Post Tracking Number in support of service to which I refer on the cover page. I have considered the uncontradicted testimony of the landlord and pursuant to sections 89 and 90, I find the landlord served the tenants with the Notice of Hearing and Application for Dispute Resolution as required.

Reference to the tenants herein is in the singular.

Issue(s) to be Decided

Is the landlord entitled to 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.

Background and Evidence

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

The tenancy began in August 2018 for monthly rental of \$1,300.00 payable on the fifteenth of the month. At the beginning of the tenancy, the tenant provided a security deposit of \$650.00. The landlord stated the tenancy agreement was verbal. A condition inspection was not conducted on moving in or out.

The tenant vacated the unit in March 15, 2020 leaving \$2,325.00 owing the landlord in outstanding rent. The tenant left considerable garbage and discarded items; the landlord loaded 1700 pounds of items and garbage left by the tenant which he took off the island on which the unit is located.

The landlord testified the tenant left the unit requiring considerable cleaning and repairs. The landlord cleaned the house himself over a period of one week and estimated his labour at 30 hours for which he requested compensation of \$750.00 based on \$25.00 an hour. The landlord then hired a cleaner and testified he paid \$360.00 although the landlord did not provide a receipt. The landlord paid for plumbing repairs, ferry fee to dump the tenant's items/garbage and tipping fees.

The landlord testified to the expenses and requested the following monetary award as follows:

ITEM	AMOUNT
Rent outstanding	\$2,325.00
Cleaner	\$360.00
Repairs to drain	\$75.00
Ferry to dump	\$300.00
Tipping fees	\$225.00
Landlord's labour	\$750.00
Filing fee	\$100.00
<b>TOTAL CLAIM</b>	<b>\$4,135.00</b>

The landlord requested authorization to apply the security deposit to the award:

ITEM	AMOUNT
Total claim	<b>\$4,135.00</b>
(security deposit)	(\$650.00)
<b>Monetary Award Requested</b>	<b>\$3,485.00</b>

### Analysis

I have considered all the submissions and refer only to key facts.

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.

I have considered all the evidence submitted by the landlord. The tenant did not attend the hearing and the landlord's testimony is uncontradicted. I find the landlord's testimony credible that the unit needed cleaning and repairs/garbage removal. I accept that he incurred the time and expenses to which he testified. The landlord articulately described the condition in which the tenant left the unit describing it as "the worse I've ever seen."

Taking into account the evidence and testimony, I find the landlord has met the burden of proof on a balance of probabilities that the unit needed cleaning when the tenant vacated, the tenant is responsible for the lack of cleanliness, the landlord incurred the amount and time claimed in cleaning expenses, and the landlord took all reasonable steps to mitigate expenses. I find the landlord is entitled to a monetary award in the amount requested for this aspect of the claim. I award the landlord his claim in this regard.

As well, in considering all the above-mentioned evidence and testimony, I find the landlord has met the burden of proof on a balance of probabilities that unit needed repairs/garbage removal when the tenant vacated, the tenant is responsible for the damage and debris, the landlord incurred the amount claimed in repairs/garbage removal, and the landlord took all reasonable steps to mitigate expenses. I find the damage is more than 'reasonable wear and tear'. I find the landlord is entitled to a monetary award in the amount requested for this aspect of the claim. I award the landlord his claim in this regard.

I accept the landlord's testimony that the tenant vacated the unit leaving outstanding

rent in the amount claimed. I award the landlord his claim in this regard.

In summary, I find the landlord has provided credible testimony as to all the claims and I grant the landlord a monetary award as requested.

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

I grant a monetary order to the landlord in the amount of **\$4,135.00**. My award to the landlord is summarized as follows:

ITEM	AMOUNT
Rent outstanding	\$2,325.00
Cleaner	\$360.00
Repairs - drain	\$75.00
Ferry to dump	\$300.00
Tipping fees	\$225.00
Landlord's labour	\$750.00
Filing fee	\$100.00
<b>TOTAL AWARD</b>	<b>\$4,135.00</b>

I authorize the landlord to apply the security deposit to the award as follows:

ITEM	AMOUNT
Total Award (above)	<b>\$4,135.00</b>
(Less security deposit)	(\$650.00)
<b>Monetary Order</b>	<b>\$3,485.00</b>

Conclusion

I grant the landlord a monetary order in the amount of **\$3,485.00** which may be filed and enforced in the Courts of the Province of British Columbia. This Order must be served on the tenants.

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 10, 2020

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Residential Tenancy Branch