



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNRL-S, MNDCL-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 SC attended the hearing on behalf of both landlords ("the landlord") and 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 tenants did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional 17 minutes to allow the tenants 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 tenants were provided.

The landlord provided affirmed testimony that the landlord served the tenants individually with the Notice of Hearing and Application for Dispute Resolution by registered mail sent on June 22, 2020 and deemed received by the tenants under section 90 of the *Act* five days later, that is, on June 27, 2020.

The landlord provided the Canada Post Tracking Numbers in support of service upon each tenant to which I refer on the cover page. Pursuant to sections 89 and 90, I find the landlord served the tenants with the Notice of Hearing and Application for Dispute Resolution on June 27, 2020.

I refer to the tenants as “the tenant”.

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. The tenancy began on September 1, 2018 for monthly rent of \$750.00 payable on the first of the month. The tenant provided a security deposit of \$375.00 which the landlord holds. The landlord submitted a copy of the signed tenancy agreement which included a parking stall.

The tenant vacated the unit on June 1, 2020 leaving outstanding rent owing to May 31, 2020 of \$1,490.00.

During the tenancy, the tenant damaged the parking stall. The tenant promised to repair the damage but failed to do so. The landlord incurred a repair expense of \$890.00 for which the landlord submitted confirming receipts.

The landlord requested a monetary award as follows:

ITEM	AMOUNT
Outstanding rent	\$1,400.00
Reimbursement damage expenses	\$890.00
Reimbursement of filing fee	\$100.00
TOTAL CLAIM LANDLORD	\$2,390.00

The landlord acknowledged failing to return the security deposit within 15 days of receiving the forwarding address and failed to conduct a condition inspection on moving out. The landlord consented to the doubling of the security deposit. The landlord requested the security deposit be applied to the monetary award as follows:

ITEM	AMOUNT
Landlord's claim - above	\$2,390.00
(Less doubling of security deposit - $\$375.00 \times 2 = \750.00)	(\$750.00)
TOTAL CLAIM LANDLORD	\$1,640.00

In summary, the landlord requested a monetary order of \$1,640.00.

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.

Rent

I accept the landlord's well-prepared, credible and supported testimony. I am satisfied based on the landlord's uncontradicted testimony and evidence, that the tenant is responsible for outstanding rent as claimed in the amount of \$1,400.00 to May 31, 2020. I find that the tenant is accountable to reimburse the landlord for rent in that amount pursuant to the tenancy agreement and the Act.

I accordingly find the landlord has met the burden of proof with respect to this aspect of the claim and I grant the landlord an award for outstanding rent as claimed.

Compensation for damages

I have considered all the evidence submitted by the landlord, including the testimony and the receipts.

I find that the parking stall was damaged by the tenant in breach of his responsibility under the Act and the tenant is responsible to compensate the landlord for the expense of repairs. I find that the landlord incurred the expense claimed to repair the damages for which the tenant is responsible. I find the expenses claimed are reasonable in the circumstances. I find the landlord took all reasonable steps to mitigate expenses.

I find the landlord has met the burden of proof on a balance of probabilities with respect to all requirements regarding this aspect of the claim.

Filing fee

As the landlord has been successful in the landlord's claim, I award the landlord reimbursement of the filing fee of \$100.00.

Summary

In summary, I find the landlord is entitled to a monetary award in the amount requested of **\$2,390.00** calculated as follows:

ITEM	AMOUNT
Outstanding rent	\$1,400.00
Reimbursement damage expenses	\$890.00
Reimbursement of filing fee	\$100.00

TOTAL CLAIM LANDLORD	\$2,390.00
-----------------------------	-------------------

Security Deposit

The landlord acknowledged a failure to return the security deposit as required under the Act and agreed to the resultant doubling of the security deposit payable to the tenant. Accordingly, the award is offset pursuant to the provisions of section 72 by \$750.00, being double the amount of the security deposit paid by the tenant and held by the landlord.

Conclusion

I grant a monetary order to the landlord in the amount of **\$2,282.57** calculated as follows:

ITEM	AMOUNT
Landlord's claim - above	\$2,390.00
(Less doubling of security deposit - $\$375.00 \times 2 = \750.00)	(\$750.00)
FINAL AWARD LANDLORD	\$1,640.00

Conclusion

I grant a monetary order to the landlord in the amount of **\$1,640.00**. This order must be served on the tenant. This order may be filed and enforced in the Courts of the Province 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 *Residential Tenancy Act*.

Dated: September 15, 2020

Residential Tenancy Branch