



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Belmont Properties
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (Act) for:

- a monetary order for unpaid rent.

The landlord's agents attended the hearing; however, the tenant did not attend.

The agent, RT, stated she served the tenant with their Application for Dispute Resolution, evidence, and Notice of Hearing (application package) by personal service and also by registered mail, both on July 7, 2020.

I accept the landlord's evidence that the tenant was served notice of this hearing in a manner complying with section 89 of the Act and the hearing proceeded in the tenant's absence.

The landlord's agents were provided the opportunity to present their evidence orally and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the submissions are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters-

The landlord filed an amended application shortly before the hearing. The landlord confirmed that the tenant had vacated the rental unit and they did not serve her with their amended application as she left no forwarding address.

I informed the landlord I would be unable to consider the additional monetary claim for cleaning, missing FOB, and a missing bi-fold mirror door costs, as this claim was in the amended application, which was not served to the other party, as required by the Rules. The landlord is at liberty to make another application for any claim not dealt with in this matter.

Additionally, the written tenancy agreement showed a different landlord than the one listed in this application. The agent confirmed that the landlord has changed since the beginning of the tenancy, to the present landlord here.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation from the tenant?

Background and Evidence

The landlord submitted a written tenancy agreement showing a tenancy start date of March 1, 2016, a fixed term through February 28, 2017, monthly rent of \$1,400, due on the 1st day of the month, and a security deposit of \$700 and pet damage deposit of \$700 being paid by the tenant to the landlord. The written tenancy agreement shows the tenancy would continue after the date of the fixed term, on a month-to-month basis.

The agent said the current monthly rent is \$1,586.

In support of their application, the landlord submitted that the tenant did not pay her rent for the months of April through September 2020, and further, she abandoned the rental unit without notice at the end of September.

Agent, AG, submitted that due to the insufficient notice to vacate, the landlord is additionally owed \$1,586 for loss of rent revenue for the month of October, as there was no time to find new tenants for the month following the tenant's sudden departure.

The agent requested to increase their monetary claim by \$1,596 for the loss of rent revenue for October 2020, as this loss was incurred after filing the application for dispute resolution.

The landlord confirmed their total monetary claim, exclusive of cleaning, missing FOB, and a missing bi-fold mirror door costs, is now as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Unpaid rent, April-September '20 (\$1,586 each)	\$9,516
2. Loss of rent for October '20	\$1,586
TOTAL CLAIMED	\$11,102

Analysis

After reviewing the relevant evidence, I provide the following findings, based upon a balance of probabilities:

As the tenant failed to attend the hearing despite being properly served, I consider this application to be unopposed.

Under section 26 of the Act, a tenant is required to pay rent in accordance with the terms of the tenancy agreement, whether or not the landlord complies with the Act, the Regulations or the tenancy agreement and is not permitted to withhold rent without the legal right to do so.

In the case before me, the undisputed evidence was the tenant owed, but did not pay, the monthly rent for April through September 2020, for a total of **\$9,516**.

Under the Rules, a landlord may amend their application at the hearing in circumstances that can be reasonably anticipated, such as when the amount of rent owing has increased since the time the application for dispute resolution was made.

I therefore allowed the landlord to increase their monetary claim, as the tenant remained in the rental unit until the end of September, 2020, and vacated without notice. Due to the insufficient notice, I find it reasonable that the landlord would be unable to find new tenants for the following month and, as a result, allow the landlord to increase their claim by **\$1,586**.

I therefore find the landlord has established a monetary claim of \$11,102.

The agent asked that they be allowed to keep the tenant's security deposit and pet damage deposit. I find it appropriate to allow the landlord to retain the tenant's security deposit of \$700 and pet damage deposit of \$700 in partial satisfaction of the monetary claim.

I direct the landlord to retain the tenant's security deposit of \$700 and pet damage deposit of \$700 in partial satisfaction of their monetary award of \$11,102.

I grant the landlords a final, legally binding **monetary order** pursuant to section 67 of the Act for the balance due in the amount of **\$9,702**.

Should the tenant fail to pay the landlord this amount without delay, the monetary order must be served upon the tenant to be enforceable and may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court.

The tenant is **cautioned** that costs of such enforcement are subject to recovery from the tenants.

Conclusion

The landlord's application for monetary compensation is granted, they have been authorized to retain the tenant's security deposit of \$700 and pet damage deposit of \$700, and they have been awarded a monetary order for the balance due, in the amount of **\$9,702**.

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: October 28, 2020

Residential Tenancy Branch