



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDL-S, FFL

### Introduction

On August 20, 2020, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting a Monetary Order for damages, to apply the security deposit to the claim, and to recover the cost of the filing fee. The matter was set for a participatory hearing via conference call.

The Landlord attended the conference call hearing; however, the Tenant did not attend at any time during the 32-minute hearing. The Landlord testified that they personally served the Tenant with the Notice of Dispute Resolution Proceeding package by sending it via registered mail on August 26, 2020. The Landlord provided the tracking number, and, via the Canada Post website, the package was confirmed as delivered on August 28, 2020. I find that the Tenant has been duly served with the Notice of Dispute Resolution Proceeding in accordance with Section 89 the Act.

Rule 7.3 of the *Residential Tenancy Rules of Procedure* states if a party or their agent fails to attend a hearing, the Arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the Application, with or without leave to re-apply.

As the Tenant did not call into the conference, the hearing was conducted in their absence and the Application was considered along with the affirmed testimony and evidence as presented by the Landlord.

### Issues to be Decided

Should the Landlord receive a Monetary Order for damages, in accordance with section 67 of the Act?

Should the Landlord be authorized to apply the security deposit to the claim, in accordance with sections 38 and 72 of the Act?

Should the Landlord be compensated for the cost of the filing fee, in accordance with section 72 of the Act?

### Background and Evidence

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.

The Landlord provided testimony and supporting evidence and stated the following:

The month-to-month tenancy began on June 1, 2007 and by the end of the tenancy, the monthly rent was \$1,011.50. The Landlord collected and still holds a \$425.00 security deposit.

The Landlord provided documentation of how the rental unit was completely renovated due to an insurance claim in early 2007. The Landlord testified that the Tenant moved into a newly renovated rental unit.

At the end of the tenancy, the Landlord stated that the Tenant did not want to participate in a move-out inspection and indicated that they were fine with someone else cleaning the rental unit.

The Landlord testified that the Tenant use to have birds as pets and let them fly throughout the rental unit. The Landlord stated that the Tenant left the rental unit in a condition that included; holes drilled through the walls, damage to the windowsills, dirty cupboards and stove, a damaged linen closet, a broken doorknob, damaged lawn/grounds, and dirty baseboard heaters containing bird feces. The Landlord submitted seventy pictures to document the condition of the rental unit.

The Landlord submitted a monetary order worksheet that included the details for the labour to remove garbage, clean the rental unit and conduct repairs for \$312.50. The Landlord also included calculations and receipts for materials and dump fees in the amount of \$42.00; and, for the cleaning of the rental unit and professional cleaning of the carpet in the amount of \$615.00. The Landlord is claiming a monetary loss of \$969.50. The Landlord did not claim for the painting of the rental unit as she acknowledged that the Tenant was there for thirteen years.

The Landlord is requesting a Monetary Order for the damages and would like to apply the security deposit to her claim.

### Analysis

Section 67 of the Act establishes that if damage or loss results from a tenancy, an arbitrator may determine the amount of that damage or loss and order the responsible party to pay compensation to the other party. In order to claim for damage or loss under the Act, the party claiming the damage or loss bears the burden of proof. The applicant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the Tenancy Agreement or a contravention of the Act on the part of the other party. Once that has been established, the applicant must then provide evidence that can verify the actual monetary amount of the loss or damage.

Section 7(1) of the Act establishes that a tenant who does not comply with the Act, the Regulations or the Tenancy Agreement must compensate the landlord for damage or loss that results from that failure to comply.

Based on the undisputed testimony and evidence of the Landlord, I find that the Tenant failed to leave the rental unit in a reasonably clean and undamaged condition pursuant to section 37 of the Act. Upon reviewing the Landlord's photos, monetary order worksheet and receipts, I find that the Landlord has proven the existence of damages, related losses and verified those losses. As such, I find the Landlord has established a monetary claim.

As such, I find that the Landlord has established a monetary claim in the amount of \$1069.50, which includes \$969.50 in damages and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution.

Pursuant to section 72(2) of the Act, I authorize the Landlord to keep the Tenant's security deposit in the amount of \$425.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a Monetary Order for the balance of \$644.50.

### Conclusion

Pursuant to Section 67 of the Act, I grant the Landlord a Monetary Order for \$644.50. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and 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: December 09, 2020

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Residential Tenancy Branch