



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDL-S, MNRL-S, MNDCL-S, FFL

### Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution, filed on November 13, 2020, wherein the Landlord sought monetary compensation from the Tenant in the amount of \$2,132.51 for unpaid rent and utilities as well as cleaning and repair costs, authority to retain the Tenant's security and pet damage deposit towards any amounts awarded, and recovery of the filing fee.

The hearing of the Landlord's Application was scheduled for teleconference at 1:30 p.m. Only the Landlord called into the hearing. He gave affirmed testimony and was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions to me.

The Tenant did not call into this hearing, although I left the teleconference hearing connection open until 1:42 p.m. Additionally, I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord and I were the only ones who had called into this teleconference.

As the Tenant did not call in, I considered service of the Landlord's hearing package. The Landlord testified that he served the Tenant with the Notice of Hearing and the Application on November 20, 2020 by registered mail. A copy of the registered mail tracking number is provided on the unpublished cover page of this my Decision.

*Residential Tenancy Policy Guideline 12—Service Provisions* provides that service cannot be avoided by refusing or failing to retrieve registered mail and reads in part as follows:

Where a document is served by registered mail, the refusal of the party to either accept or pick up the registered mail, does not override the deemed service provision. Where the registered mail is refused or deliberately not picked up, service continues to be deemed to have occurred on the fifth day after mailing.

Pursuant to the above, and section 90 of the *Residential Tenancy Act*, documents served this way are deemed served five days later; accordingly, I find the Tenant was duly served as of November 25, 2020 and I proceeded with the hearing in their absence.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Rules of Procedure*. However, not all details of the Landlord's submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the Landlord and relevant to the issues and findings in this matter are described in this Decision.

#### Issues to be Decided

1. Is the Landlord entitled to monetary compensation from the Tenant?
2. Should the Landlord be entitled to retain the Tenant's security and pet damage deposit?
3. Should the Landlord recover the filing fee?

#### Background and Evidence

The Landlord testified as follows. This tenancy began August 1, 2018. Monthly rent was \$1,537.00. The Tenant paid a \$750.00 security deposit and a \$300.00 pet damage deposit.

The Landlord filed a Monetary Orders Worksheet in which he detailed his claim of \$2,132.51 for the following:

Unpaid rent for August 2020	\$749.50
Replacement cost for bathroom light bulbs	\$17.81
Interior paint and drywall filler	\$39.58
Cleaning supplies and lightbulbs	\$8.51
Kitchen lights	\$33.87

Bedroom blinds	\$118.21
Floor cleaner and wall plates	\$27.15
Kitchen strainer	\$12.54
Outstanding hydro bill	\$168.60
Outstanding gas bill	\$16.74
Labour: cleaning and painting (28 hours at \$30/hour)	\$840.00

The Landlord testified that the Tenant failed to pay the August 2020 rent such that at the time the tenancy ended the sum of \$749.50 was outstanding.

The Landlord also testified that the Tenant failed to pay the outstanding utilities. Copies of the bills for those utilities was provided in evidence before me.

The Landlord submitted a copy of the move out condition inspection report as well as numerous photos of the rental unit. The report and the photos confirm the Landlord's testimony that the Tenant failed to clean the rental unit and left numerous items behind. The photos indicated that the Tenant failed to clean behind and under the fridge and stove and left many holes and scratches in the walls. The Landlord also provided copies of receipts for the cleaning and wall repair supplies. The Landlord confirmed that he did most of the cleaning and repairs himself to minimize his out of pocket costs. In the claim before me he sought monetary compensation for his time at \$30.00 per hour.

### Analysis

In this section reference will be made to the *Residential Tenancy Act*, the *Residential Tenancy Regulation*, and the *Residential Tenancy Policy Guidelines*, which can be accessed via the Residential Tenancy Branch website at:

[www.gov.bc.ca/landlordtenant](http://www.gov.bc.ca/landlordtenant).

In a claim for damage or loss under section 67 of the *Act* or the tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the Landlord has the burden of proof to prove their claim.

Section 7(1) of the *Act* provides 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.

Section 67 of the *Act* provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

To prove a loss and have one party pay for the loss requires the claiming party to prove four different elements:

- proof that the damage or loss exists;
- proof that the damage or loss occurred due to the actions or neglect of the responding party in violation of the *Act* or agreement;
- proof of the actual amount required to compensate for the claimed loss or to repair the damage; and
- proof that the applicant followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed.

Section 26 of the *Act* requires a tenant to pay rent when rent is due. I accept the Landlord's undisputed evidence that the Tenant owed rent for the month of August at the time the tenancy ended. I also accept the Landlord's testimony, as well as the documentary evidence filed, that the Tenant failed to pay the utilities such that a balance was outstanding when the tenancy ended. I find the Landlord is entitled to recover these funds from the Tenant.

Section 37(2) of the *Act* requires a tenant to leave a rental unit undamaged, except for reasonable wear and tear, at the end of the tenancy and reads as follows:

- 37** (1) Unless a landlord and tenant otherwise agree, the tenant must vacate the rental unit by 1 p.m. on the day the tenancy ends.
- (2) When a tenant vacates a rental unit, the tenant must
- (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and
  - (b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

I accept the Landlord's undisputed testimony and evidence, including the move out inspection, photos of the rental unit, and the invoices submitted by the Landlord which confirm that the rental unit required cleaning and repairs when the tenancy ended. I am also satisfied that the Tenant left numerous items at the rental unit which required disposal. I find the Landlord mitigated his losses by undertaking the majority of the cleaning and repairs himself. I find the amounts claimed by the Landlord to be reasonable based on the evidence filed and the testimony of the Landlord. I therefore award the Landlord the amounts claimed.

As the Landlord has been successful with this application, I also award the Landlord recovery of the filing fee.

### Conclusion

The Landlord's claim for monetary compensation from the Tenant is granted. The Landlord is entitled to the sum of **\$2,132.51** for the following:

Unpaid rent for August 2020	\$749.50
Replacement cost for bathroom light bulbs	\$17.81
Interior paint and drywall filler	\$39.58
Cleaning supplies and lightbulbs	\$8.51
Kitchen lights	\$33.87
Bedroom blinds	\$118.21
Floor cleaner and wall plates	\$27.15
Kitchen strainer	\$12.54
Outstanding hydro bill	\$168.60
Outstanding gas bill	\$16.74
Labour: cleaning and painting (28 hours at \$30/hour)	\$840.00
Filing fee	\$100.00
<b>TOTAL AWARDED</b>	<b>\$2,132.51</b>

Pursuant to sections 38 and 72 of the *Act*, I authorize the Landlord to retain the Tenant's \$750.00 security deposit and \$300.00 pet damage deposit towards the amounts awarded and I grant the Landlord a Monetary Order in the amount of **\$1,082.51** for the balance due. This Order must be served on the Tenant and may be filed and enforced in the B.C. Provincial Court (Small Claims Division).

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: March 24, 2021

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Residential Tenancy Branch