



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNRL-S MNDCL-S FFL

### Introduction

The landlord seeks compensation pursuant to section 67 of the *Residential Tenancy Act* ("Act"), including recovery of the filing fee under section 72 of the Act.

An agent for the landlord attended the hearing on June 7, 2021 at 1:30 PM. The tenant did not attend the hearing, which ended at 1:38 PM.

I am satisfied based on documentary and oral evidence provided that the tenant was served with the Notice of Dispute Resolution Proceeding in compliance with Act and the *Rules of Procedure*.

### Issue

Is the landlord entitled to compensation?

### Background and Evidence

Relevant evidence, complying with the *Rules of Procedure*, was carefully considered in reaching this decision. Only relevant oral and documentary evidence needed to resolve the specific issue of this dispute, and to explain the decision, is reproduced below.

The tenancy began on December 19, 2019 and ended on January 30, 2021. Monthly rent was \$1,518.00. This was due on the first day of the month. The tenant paid a \$734.00 security deposit and a \$734.00 pet damage deposit; both deposits are held in trust by the landlord pending the outcome of this application. A copy of a written tenancy agreement was submitted into evidence.

The landlord seeks \$7,590.00 in rent arrears. This is for rent that was unpaid in the months of July, August, October, and December 2020, and, January 2021. In addition, the landlord seeks \$75.00 in compensation for three \$25.00 NSF fees.

Submitted into evidence in support of its case the landlord presented a ledger (which showed the accumulating arrears), an in- and outgoing inspection report, a warning letter to the tenant regarding the unpaid rent, various proofs of service documentation, and, a completed Monetary Order Worksheet.

### Analysis

Section 7 of the Act states that if a party does not comply with the Act, the regulations or a tenancy agreement, the non-complying party must compensate the other for damage or loss that results.

It should be noted that the standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, regulations or the tenancy agreement, unless the tenant has a right under the Act to deduct all or some of the rent.

The landlord testified, and provided documentary evidence to support their submission, that the tenant did not pay any rent for four months in 2020 and for one month in 2021. There is no evidence before me that the tenant had a right under the Act to not pay the rent. In addition, the evidence presented clearly shows that as a result of the tenant's insufficient funds, the landlord incurred a total of \$75.00 in NSF fees.

Taking into consideration all the oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving its claim for \$7,665.00 in arrears and NSF fees.

As the landlord was successful in its application, I grant them an additional award of \$100.00 to cover the cost of the filing fee, pursuant to section 72 of the Act. The total awarded is thus \$7,765.00.

Section 38(4)(b) of the Act permits a landlord to retain an amount from a security or pet damage deposit if “after the end of the tenancy, the director orders that the landlord may retain the amount.” As such, I order that the landlord may retain the tenant’s security and pet damage deposits of \$1,468.00 in partial satisfaction of the above-noted award.

A monetary order in the amount of \$6,297.00 is issued, in conjunction with this decision, to the landlord. The landlord must serve a copy of this order on the tenant.

### Conclusion

Pursuant to section 67 of the Act, the landlord is hereby granted a monetary order in the amount of \$6,297.00. A copy of the order must be served on the tenant. If the tenant fails to pay the landlord the amount owed, the landlord may file and enforce the order in the Provincial Court of British Columbia (Small Claims Court).

Pursuant to section 38(4)(b) of the Act the landlord is hereby authorized, and ordered, to retain the tenant’s security and pet damage deposits, which total \$1,468.00.

This decision is made on authority delegated to me under section 9.1(1) of the Act.

Dated: June 7, 2021

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Residential Tenancy Branch