



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes

For the landlord: MNRL-S MNDCL-S FFL  
For the tenant: MNRT MNDCT OLC FFT

### Introduction

This hearing was convened as a result an Application for Dispute Resolution (application) by both parties seeking remedy under the *Residential Tenancy Act* (Act). The landlord applied for a monetary order of \$8,473.49 for unpaid rent, loss of rent, compensation for money owed, to offset any amount with the tenant's security deposit and for the cost of the filing fee. The tenant applied for a monetary order of \$8,600.00 for compensation for monetary loss or other money owed, for the cost of emergency repairs, for an order directing the landlord to comply with the Act, regulation or tenancy agreement and for the cost of the filing fee.

An agent for the landlord, HM (agent) attended the teleconference hearing. The tenant did not attend the hearing. As the tenant did not attend the hearing to present the merits of their application, the tenant's application was **dismissed, without leave to reapply**, after the 10-minute waiting period had elapsed. The hearing continued with consideration of the landlord's application only pursuant to Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 7.1 and 7.3, which address the consequences for not attending a dispute resolution proceeding.

The hearing process was explained to the agent, and the agent was given an opportunity was given to ask questions about the hearing process. Thereafter the agent gave affirmed testimony, was provided the opportunity to present her relevant evidence orally and in documentary form prior to the hearing and make submissions to me. Words utilizing the singular shall also include the plural and vice versa where the context requires.

The agent testified that tenant was served by email via Vancouver Eviction Services on May 13, 2021 with the Notice of Hearing, application and documentary evidence. Based on the undisputed evidence before me, I find the tenant was sufficiently served as of May 16, 2021, as the Act and Regulation state that the receiving party is deemed served 3 days after the email is sent. I also find the landlord's application to be unopposed by the tenant.

### Preliminary and Procedural Matters

The agent was informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The agent was also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the agent was informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. The agent had no questions about my direction pursuant to RTB Rule 6.11.

In addition, the agent confirmed the email addresses of both parties at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to the landlord and that the decision only would be emailed to the tenant.

### Issues to be Decided

- Is the landlord entitled to a monetary order under the Act, and if so, in what amount?
- What should happen to the tenant's security deposit under the Act?
- Is the landlord entitled to the filing fee?

### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. The tenancy began on January 1, 2020. Monthly rent in the amount of \$1,960.00 was due on the first day of each month. The tenant paid a security deposit of \$925.00 at the start of the tenancy, which has accrued \$0.00 in interest and which the landlord continues to hold.

The agent testified that the landlord already obtained a two (2) day order of possession on February 23, 2021 (Previous Decision). The file numbers of the Previous Decision have been included on the style of cause for ease of reference.

The landlord stated that the tenant refused to vacate the rental unit once served with the order of possession and as a result, the landlord suffered the following costs which they are now claiming for, which I find total \$8,472.48 as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Supreme Court filing fee	\$120.00
2. Bailiff costs	\$3,430.56
3. Toilet damaged by tenant	\$171.48
4. Paint damage plus supplies	\$109.69
5. Plumbing costs due to tenant removing taps and shower head and putting soap in toilet	\$600.00
6. Disposal of garbage costs	\$120.75
7. Unpaid rent for March 2021	\$1,960.00
8. Loss of rent for April 2021	\$1,960.00
<b>TOTAL</b>	<b>\$8,472.48</b>

Regarding items 1 and 2, the agent presented a bailiff invoice for the amount claimed of \$3,430.56 and stated that if the tenant had vacated as required, they would not have been forced to hire a bailiff and that the tenant is responsible for all costs related to enforcing an order of possession. The agent also presented the filing fee invoice for the costs to file the Order of Possession dated February 23, 2021 for a Writ of Possession from the Supreme Court which cost \$120.00 in filing fees.

Regarding items 3, 4, 5 and 6, the agent also stated that the tenant before vacating the rental unit secretly put soap into the water reservoir of the toilet and ruined the toilet by doing so. In addition, the agent stated that the tenant removed all taps and the showerhead from the rental unit, which required a replacement toilet of \$171.48, a plumber cost of \$600.00, all of which were submitted in evidence. The agent also stated that the tenant damaged the rental unit, which required painting and supplies of \$109.69 and that the receipts were presented to show the costs to the landlord. In addition, the landlord had to remove all the garbage left behind and the disposal receipts were included to support the \$120.75 paid for disposal costs.

Regarding items 7 and 8, the landlord has claimed for loss of \$1,960.00 rent for March 2021 as the tenant was forcibly evicted by the bailiffs on March 31, 2021, and then the landlord suffered a loss of \$1,960.00 for April 2021 rent as the rental unit was not left in a reasonably clean and undamaged condition by the tenant who was forcibly removed by the bailiffs by way of a Writ of Possession.

The landlord is also seeking the filing fee and to offset the claim with the tenant's \$925.00 security deposit.

### Analysis

Based on the undisputed testimony of the agent and the undisputed documentary evidence before me, and on the balance of probabilities, I find the following.

**Items 1 and 2-** I accept the undisputed evidence from the agent who presented a bailiff invoice for the amount claimed and stated that if the tenant had vacated as required, they would not have been forced to hire a bailiff. I also agree that the tenant is responsible for all costs related to enforcing an order of possession under the Act. Given the invoices before me, I find the landlord has met the burden of proof and is granted **\$3,430.56** for bailiff costs plus **\$120.00** for Supreme Court filing costs.

**Items 3, 4, 5 and 6 –** I accept the agent's undisputed testimony that the tenant before vacating the rental unit secretly put soap into the water reservoir of the toilet and ruined the toilet by doing so. In addition, I find the tenant removed all taps and the showerhead from the rental unit, which required a replacement toilet of \$171.48, a plumber cost of \$600.00, all of which were submitted in evidence. I also accept that the tenant damaged the rental unit, which required painting and supplies of \$109.69 and that the receipts were presented to show the costs to the landlord. Finally, based on the undisputed evidence before me, I find the tenant breached section 37 of the Act by failing to leave the rental unit in a reasonably clean and undamaged condition and that the damage was beyond reasonable wear and tear based on the agent's testimony. Therefore, I find the tenant is liable for the \$120.75 paid for disposal costs. Given the above I find the landlord has met the burden of proof and is awarded all costs for items 3, 4, 5 and 6 as claimed.

**Items 7 and 8 –** I find the tenant breached section 26 of the Act which requires that March 2021 rent of \$1,960.00 be paid on March 1, 2021 and was not. In addition, by failing to vacate the rental unit as required by the 2-day Order of Possession, I find the tenant is liable for the loss of April 2021 rent of \$1,960.00 also.

The landlord continues to hold the tenant's security deposit of \$925.00. As the landlord's claim had merit, **I grant** the landlord the recovery of the **\$100.00** filing fee. I find that the landlord has established a total monetary claim of **\$8,572.48** as follows:

ITEM DESCRIPTION	AMOUNT GRANTED
1. Supreme Court filing fee	\$120.00
2. Bailiff costs	\$3,430.56
3. Toilet damaged by tenant	\$171.48
4. Paint damage plus supplies	\$109.69
5. Plumbing costs due to tenant removing taps and shower head and putting soap in toilet	\$600.00
6. Disposal of garbage costs	\$120.75
7. Unpaid rent for March 2021	\$1,960.00
8. Loss of rent for April 2021	\$1,960.00
9. Filing Fee	\$100.00
<b>TOTAL</b>	<b>\$8,572.48</b>

Pursuant to section 72 of the Act, **I authorize** the landlord to retain the tenant's full security deposit of \$925.00 in partial satisfaction of the landlord's monetary claim. The landlord is granted a monetary order pursuant to section 67 of the Act in the balance owing by the tenant to the landlord in the amount of **\$7,647.48**.

### Conclusion

The tenant's application was dismissed in full, without leave to reapply.

The landlord's application was fully successful. The landlord has established a total monetary claim of \$8,572.48 and has been authorized to retain the tenant's full security deposit of \$925.00 in partial satisfaction of the landlord's monetary claim. The remaining balance of \$7,647.48 is owing by the tenant to the landlord and a monetary order is granted to the landlord as a result in that amount. Should the landlord require enforcement of the monetary order, the order must be first served on the tenant with a demand for payment letter and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The tenant may be held liable for the costs associated with enforcing the monetary order.

This decision will be emailed to both parties. The monetary order will be emailed to the landlord only for service on the tenant.

The tenant is cautioned not to violate sections 26 and 37 of the Act in the future.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: June 14, 2021

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Residential Tenancy Branch