



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding First United Church Social Housing
Society and [tenant name suppressed to protect privacy]

DECISION

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

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for a monetary order of \$120.00 for compensation under the Act; for a monetary order for unpaid rent in of \$2,604.00; for a monetary order of \$3,138.50 for damages for the Landlord, retaining the security deposit to apply to these claims; and to recover the \$100.00 cost of their Application filing fee. However, in the course of the hearing, the Agent indicated that the last is made up of the first two claims, plus \$992.00 for cleaning and repairing the rental unit at the end of the tenancy. Accordingly, I find that the third amount claimed should be \$992.00.

An agent for the Landlord, D.A. ("Agent"), appeared at the teleconference hearing and gave affirmed testimony. However, no one attended on behalf of the Tenant. The teleconference phone line remained open for over 30 minutes and was monitored throughout this time. The only person to call into the hearing was the Agent, who indicated that she was ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct and that the only person on the call, besides me, was the Agent.

I explained the hearing process to the Agent and gave her an opportunity to ask questions about it. During the hearing the Agent was given the opportunity to provide her evidence orally and to respond to my questions. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

As the Tenant did not attend the hearing, I considered service of the Notice of Dispute Resolution Hearing. Section 59 of the Act and Rule 3.1 state that each respondent must

be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Agent testified that she served the Tenant with the Notice of Hearing documents and evidence by Canada Post registered mail, sent on April 28, 2021. The Agent provided the Canada Post tracking number as evidence of service. I find that the Tenant was deemed served with the Notice of Hearing documents in accordance with the Act. I, therefore, admitted the Application and evidentiary documents, and I continued to hear from the Agent in the absence of the Tenant.

Preliminary and Procedural Matters

The Agent provided the Landlord's email address in the Application and she confirmed this in the hearing. The Agent also provided the Tenant's forwarding address, as she did not know the Tenant's email address. She also confirmed her understanding that the Decision would be sent to both Parties, and any Orders would be sent to the appropriate Party.

At the outset of the hearing, I advised the Agent that pursuant to Rule 7.4, I would only consider her written or documentary evidence to which she pointed or directed me in the hearing. I also advised the Agent that she is not allowed to record the hearing and that anyone who was recording it was required to stop immediately. The Agent affirmed that she was not recording the hearing.

Issue(s) to be Decided

- Is the Landlord entitled to a monetary order, and if so, in what amount?
- Is the Landlord entitled to recovery of the Application filing fee?

Background and Evidence

The tenancy agreement states, and the Agent confirmed that the fixed-term tenancy began on April 15, 2018 and ran to April 15, 2019 and then operated on a month-to-month basis. She confirmed that under the tenancy agreement, the Tenant was required to pay the Landlord a monthly rent of \$1,184.00, due on the first day of each month. The Agent said the Tenant paid the Landlord a security deposit of \$577.50, and no pet damage deposit. The Agent also advised me that the Tenant's rent was subsidized and that she was required to pay the Landlord \$660.00 per month under the tenancy agreement.

#1 MONETARY ORDER FOR COMPENSATION UNDER THE ACT → \$120.00

In the Application, the Landlord said that this claim is for chargebacks that occurred during the tenancy. In the hearing, the Agent explained that these include a \$50.00 charge for unblocking the bathtub of a face cloth on January 15, 2020. There is also a \$70.00 charge for the replacement of lost or stolen keys on March 20, 2020.

#2 MONETARY ORDER FOR UNPAID RENT → \$2,604.00

The Landlord's second claim is for recovery of \$2,604.00 in unpaid rent, which she said accrued throughout the tenancy. The Agent submitted ledgers of the account for this tenancy, which include the amounts in the following table.

Date Rent Due	Amount Owing [+\$660.00]	Amount Received	Date Received	Balance Owing
Feb 1/20				\$ 744.00
Mar 1/20	\$1,404.00	\$330.00	Mar 6/20	\$1,074.00
Apr 1/20	\$1,734.00	\$450.00	Apr 16/20	\$1,284.00
Jan 1/21	\$1,944.00	\$0.00		\$1,994.00
Feb 1/21	\$2,604.00	\$660.00	Feb 12/21	\$1,994.00
Mar 1/21	\$2,604.00	\$0.00		\$2,604.00
	TOTAL OWING			\$2,604.00

#3 COMPENSATION FOR MONETARY LOSS OR MONEY OWED → \$992.00

The Agent explained that the initial claim of \$3,138.50 for this category was calculated by including each of the claims in this Application and deducting the security deposit. However, I said that I needed to know the amount for this specific claim, alone.

The Agent said that this is the amount they estimated for the damages and cleaning. She said: "We had to wash the walls to paint them."

The Agent referred me to a chart she had submitted which includes the following charges on the move-out inspection report.

ITEM	COST	QUANTITY	COST
Aluminum range hood filter	15.00	1	15.00
Junk removal			500.00
Unit cleaning	30.00/hr	15 hours	450.00
Drip bowl – small	6.25	2	12.50
Drip bowl - large	7.25	2	14.50
		TOTAL	\$992.00

The Agent said that there were no receipts uploaded, because she thought she had to have the documents submitted within 15 days of applying. She said:

...this makes it a little difficult to get it in there. I didn't enclose those. There was a gap in waiting for invoices, so these are estimated based on doing this for a few years. We didn't actually do repairs or paint – it is just the unit cleaning and replacements, and the removal of the junk she left behind

There were stickers on the walls, on the doors, a speaker set, and all sorts of small junk. We bring in a company called [C.S.] and we have them remove everything. There was a massive microwave in the kitchen. That thing was large and heavy, and there were food items in the sink and cabinets. The oven was quite dirty inside and underneath. The top of the stove was quite dirty. These are fairly reasonable charges given the condition of the unit. Nothing excessive.

The Agent did not have an invoice from [C.S.].

The condition inspection report referred to the condition of the rental unit at the end of the tenancy. Notes indicate that the Tenant abandoned furniture and other items in the unit and lobby, and that the Tenant painted/decorated with stickers. The Tenant did not attend the move-out condition inspection of the rental unit.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

Before the Agent testified, I advised her of how I would analyze the evidence presented to me. I said that a party who applies for compensation against another party has the burden of proving their claim on a balance of probabilities. Policy Guideline 16 sets out a four-part test that an applicant must prove in establishing a monetary claim. In this case, the Landlord must prove:

1. That the Tenant violated the Act, regulations, or tenancy agreement;
2. That the violation caused the Landlord to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the Landlord did what was reasonable to minimize the damage or loss.

("Test")

#1 MONETARY ORDER FOR COMPENSATION UNDER THE ACT → \$120.00

I find that the Landlord's undisputed evidence is that the Tenant caused the Landlord to incur costs, as a result of the Tenant's actions in blocking the drain with a face cloth, and with losing her keys.

I find that the Landlord has provided sufficient evidence to support their burden of proof on a balance of probabilities. I, therefore, award the Landlord with recovery of **\$120.00** from the Tenant for this claim, pursuant to section 67 of the Act.

#2 MONETARY ORDER FOR UNPAID RENT → \$2,604.00

Section 26 of the Act states: "A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent." There is no evidence before me that the Tenant had a right to deduct any portion of the monthly rent due to the Landlord.

I find that the Landlord has provided sufficient evidence to establish on a balance of probabilities that the Tenant failed to pay her full rent during the tenancy. I, therefore, award the Landlord with **\$2,604.00** from the Tenant pursuant to sections 26 and 67.

#3 COMPENSATION FOR MONETARY LOSS OR MONEY OWED → \$992.00

I explained to the Agent the service requirements further to having applied for RTB dispute resolution.

Rule 2.5 states:

2.5 Documents that must be submitted with an Application for Dispute Resolution

To the extent possible, the applicant should submit the following documents at the same time as the application is submitted:

- a detailed calculation of any monetary claim being made;
- a copy of the Notice to End Tenancy, if the applicant seeks an order of possession or to cancel a Notice to End Tenancy; and
- copies of all other documentary and digital evidence to be relied on in the proceeding, subject to Rule 3.17 [Consideration of new and relevant evidence].

However, Rule 3.14 states:

3.14 Evidence not submitted at the time of Application for Dispute Resolution

Except for evidence related to an expedited hearing (see Rule 10), documentary and digital evidence that is intended to be relied on at the hearing must be received by the respondent and the Residential Tenancy Branch directly or through a Service BC Office not less than 14 days before the hearing.

In the event that a piece of evidence is not available when the applicant submits and serves their evidence, the arbitrator will apply Rule 3.17. .

[emphasis added]

Accordingly, the Landlord could have submitted additional evidence that became available after applying, as long as it was received by the RTB and the Tenant within 14 days of the hearing.

Section 37 of the Act states that a tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. I find that the Landlord submitted sufficient evidence to establish that the Tenant breached section 37 of the Act in the condition in which she left the rental unit at the end of the tenancy. I find that the Landlord's undisputed claims are reasonable, and I award the Landlord with recovery of **\$922.00** from the Tenant, pursuant to sections 37 and 67 of the Act.

Summary and Set Off

I find that this Application meets the criteria under section 72 (2) (b) of the Act to be offset against the Tenant's \$577.50 security deposit in partial satisfaction of the Landlord's award. Given the Landlord's success in their Application, I also award them with recovery of the **\$100.00** Application filing fee, pursuant to section 72.

Unpaid Charges	\$ 120.00
Unpaid rent	\$2,604.00
Cleaning/replacements	\$ 992.00
Application filing fee	<u>\$ 100.00</u>
Sub-total	<u>\$3,816.00</u>

I authorize the Landlord to retain the Tenant's **\$577.50** security deposit in partial satisfaction of this award. I grant the Landlord a Monetary Order of **\$3,238.50** for the remainder of the award owing by the Tenant to the Landlord, pursuant to section 67.

Conclusion

The Landlord is successful in their Application, as they provided sufficient evidence to prove their claims on a balance of probabilities. The Landlord is awarded \$3,716.00 from the Landlord for this Application, and they are also awarded recovery of the \$100.00 Application filing fee from the Tenant.

The Landlord is authorized to retain the Tenant's **\$577.50** security deposit in partial satisfaction of the award. I grant the Landlord a Monetary Order or **\$3,238.50** from the Tenant in satisfaction of the remaining amount of the award owing to the Landlord.

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: November 02, 2021

Residential Tenancy Branch