



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **MNDCL, MNDL, MNRL, FFL**

### Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

The landlord joined the hearing 16 minutes after the scheduled time for the hearing. The hearing continued for 17 more minutes.

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for 33 minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant was provided.

As the tenant did not attend the hearing, the issue of service was addressed.

The landlord testified the landlord personally served the tenant at the Courthouse in Rossland, BC with the Notice of Hearing and Application for Dispute Resolution on August 10, 2021.

Pursuant to section 89 and based upon the affirmed testimony of the landlord, I find that the landlord personally served the tenant on August 10, 2021.

Issue(s) to be Decided

Is the landlord entitled to the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act, Residential Tenancy Regulation ("Regulation")* or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

Background and Evidence

The landlord provided uncontradicted affirmed testimony as the tenant did not attend the hearing. The landlord submitted credible evidence in support of all relevant facts.

The landlord explained the background of the testimony as follows:

INFORMATION	DETAILS
Type of Tenancy	Monthly
Beginning Date	November 1, 2020
Order of Possession (file #s on first page)	May 15, 2021
Writ of Possession	May 3, 2021
Vacancy Date	June 5, 2021
Rent payable on first of month	\$1,200.00
Arrears of Rent	June 2021 (\$1,200.00)

No condition inspection report was submitted.

The landlord stated that the tenant refused to vacate the unit when the bailiff attended pursuant to an Order of Possession and Writ of Possession requiring the attendance of several police officers to remove the tenant and her partner in handcuffs.

The landlord testified as follows. The landlord incurred bailiff fees and Writ fees as set out above to file the Order of Possession and remove the tenant, unit occupants and personal possessions. The landlord stored the possessions at the total cost set out

above. The unit needed cleaning, repairs and contained debris; the landlord incurred the cleaning, repairs and landfill expenses set out above. The walls of the unit contained countless holes requiring repairs/painting at the cost set out above.

In written submissions, the landlord stated as follows which they confirmed in affirmed testimony:

*I am requesting damage payment as there is evidence of the smoking of cigarets and other illegal narcotics [meth] in the residence. the house had to be professionally cleaned and repainted. there is also hundreds of nail holes in the walls from blankets being hung over all window openings. there is damage to all the floors in the house including the stairs and even after the moving company removed [tenant's] items as per her request there was still a mountain of trash left behind.*

The landlord submitted several supporting pictures showing the damage to the unit and the condition when the tenant moved out.

The landlord testified the tenant did not pay rent for the month of June 2021. The landlord submitted a copy of the tenancy agreement which set out the amount of rent. The landlord claimed reimbursement of one month's rent as the unit required repairs and cleaning after the tenant was forcibly removed and was not rented for the remainder of the month.

The landlord testified that the following expenses were incurred because of damage caused by the tenant for which the landlord seeks compensation in full:

ITEM	AMOUNT
Outstanding rent	\$1,200.00
Bailiff fees	\$1,823.00
Writ of Possession	\$141.00
Moving company fees	\$3,176.00
Storage fees (\$257.25 + \$103.95 + \$141.74)	\$502.95
Cleaning	\$330.00
Painting	\$269.24
Land fill fees	\$122.60
Filing fee	\$100.00
<b>TOTAL</b>	<b>\$7,664.79</b>

The landlord submitted supporting receipts of each expense claimed and provided particulars of each claim and corresponding expense.

The landlord also requested reimbursement of the filing fee for a total claim of **\$7,664.79**.

### Analysis

I have considered all the submissions and evidence presented to me, including those provided in writing and orally. I will only refer to certain aspects of the submissions and evidence in my findings.

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).

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the *Act*, regulations or a tenancy agreement.

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

To claim for damage or loss, the claiming party bears the burden of proof on a balance of probabilities; that is, something is more likely than not to be true. The claimant must establish four elements.

1. The claimant must prove the existence of the damage or loss.
2. Secondly, the claiming party must that the damage or loss stemmed directly from a violation of the agreement or a contravention on the part of the other party.
3. Once those elements have been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.
4. Finally, the claimant has a duty to take reasonable steps to reduce, or mitigate, their loss.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails.

In this case, the onus is on the landlord to prove the landlord is entitled a claim for a monetary award. The landlord provided believable testimony supported in all material aspects by well-organized and comprehensive documents including receipts and photographs.

I have considered all the evidence submitted by the landlord, including the receipts and the photographs showing the unit needed cleaning and repairs.

Considering the evidence and testimony, I find the landlord has met the burden of proof on a balance of probabilities as follows. The landlord obtained the writ and retained the bailiff as well as storage expenses at the costs indicated. The unit needed cleaning, repairs and painting when the tenant vacated, the tenant is responsible for the lack of cleanliness and damage, the landlord incurred the amount claimed in expenses, and the landlord took all reasonable steps to mitigate expenses. The tenant left debris which the landlord disposed of at the landfill costs claimed.

In summary, I find the landlord has met the burden of proof for each part of the claim and is entitled to a monetary award in the amount requested.

I accept the landlord's testimony that the tenant vacated the unit in June 2021 without paying rent for that month and the amount of \$1,200.00 is owing for outstanding rent. I accept the landlord was unable to rent the unit for the month of June 2021 as the unit required considerable cleaning, repairs and removal of debris.

As the landlord has been successful in this matter, I award the landlord reimbursement of the filing fee in the amount of \$100.00.

I grant a monetary order to the landlord in the amount of **1,471.14**. My award to the landlord is summarized as follows:

ITEM	AMOUNT
Outstanding rent	\$1,200.00
Bailiff fees	\$1,823.00
Writ of Possession	\$141.00
Moving company fees	\$3,176.00
Storage fees (\$257.25 + \$103.95 +	\$502.95

\$141.74)	
Cleaning	\$330.00
Painting	\$269.24
Land fill fees	\$122.60
Filing fee	\$100.00
<b>TOTAL</b>	<b>\$7,664.79</b>

I grant the landlord a Monetary Order in the amount of **\$7,664.79**.

### Conclusion

The landlord is entitled to a Monetary Order in the amount of **\$7,664.79**.

This Order must be served on the tenant. If the tenant fails to comply with this Order the landlord may file the order in the Courts of the Province of BC to be 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: February 18, 2022

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Residential Tenancy Branch