



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BC Housing Management Commission  
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes      **MNDL, 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*;
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- An Order for reimbursement of the filing fee under section 72.

LA attended as agent for the landlord ("the landlord"). The landlord had opportunity to provide affirmed testimony, present evidence and make submissions.

The hearing process was explained.

The tenant did not appear at the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional ten minutes to allow the landlord 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 had been provided.

The landlord stated they were not recording the hearing.

The landlord provided the email address to which the Decision shall be sent. The landlord confirmed the tenant's address provided by the tenant before vacating the unit to which a copy of the Decision shall be sent.

#### *Preliminary Issue – Service*

The landlord provided affirmed testimony that the landlord served the tenant with the Notice of Hearing and Application for Dispute Resolution by registered mail sent on October 8, 2022 and deemed received by the tenant under section 90 of the *Act* five days later, that is, on October 8, 2022.

The landlord submitted the mailing receipt as evidence which included the Canada Post Tracking Number.

Pursuant to the landlord's evidence and sections 89 and 90, I find the landlord served the tenant with the Notice of Hearing and Application for Dispute Resolution on October 8, 2022.

#### Issues

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* and reimbursement of the filing fee?

#### Background

The tenancy began on September 10, 2004, for monthly rental of \$236.00 payable on the first of the month. No security deposit was paid at the beginning of the tenancy.

The landlord submitted a copy of the Condition Inspection Report on moving in and moving out.

The landlord completed a Condition Inspection Report on moving in and the tenant signed the Report. The Report indicated the unit was in good condition in all aspects. The unit had been freshly painted and had new floorings.

The Condition Inspection Report on moving out was completed by the landlord only as the tenant did not attend the scheduled inspection. The Report lists considerable damage, abandoned debris and uncleanliness. The landlord testified to condition of the unit when the tenant vacated.

The tenant provided a forwarding address before moving out.

The landlord provided dated receipts for repairs and claimed compensation as follows:

ITEM	AMOUNT
Window replacement	\$345.52
Door replacement	\$200.00
Debris removal, cleaning, repairs	\$4,329.72
Reimbursement of filing fee	\$100.00
<b>TOTAL</b>	<b>\$4,975.24</b>

The landlord submitted a comprehensive and complete evidence package which included many photographs attesting to the condition of the unit on moving out.

The landlord requested a Monetary Order of **\$4,975.24**.

### 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.

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 credible 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, the photographs, and the condition inspection report on moving in (signed by tenant) and moving out (not signed by tenant).

Considering the evidence and testimony, I find the landlord has met the burden of proof on a balance of probabilities that the unit was damaged when the tenant vacated, the tenant is responsible for the damage, the landlord incurred the amount claimed in repair expenses, and the landlord took all reasonable steps to mitigate expenses. I find the landlord is entitled to a monetary award in the amount requested for this aspect of the claim.

In summary, I grant the landlord a Monetary Order of **\$4,975.24**.

Conclusion

The landlord is entitled to a Monetary Order in the amount of **\$4,975.24**. This Order must be served on the tenant. The Order may be filed and enforced in the Courts of BC.

Dated: May 03, 2022

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Residential Tenancy Branch