



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

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

### Introduction

The landlord seeks compensation under the *Residential Tenancy Act* ("Act"). A hearing was held on May 17, 2022 at 1:30 PM. In attendance was the landlord; the tenant did not attend the hearing, which ended at 1:39 PM.

### Preliminary Issue: Service of Notice of Dispute Resolution Proceeding

The landlord provided oral and documentary evidence demonstrating that they served the Notice of Dispute Resolution Proceeding on the tenant by way of Canada Post registered mail. A copy of the registered mail receipt and tracking number was in evidence. The landlord testified that the package was returned unclaimed by the recipient tenant. It is noted that refusing to accept service of a legal document does not pause or otherwise stop a legal proceeding. Further, it is noted that the tenant submitted a document on May 4, 2022, in which they deny having any knowledge of the dispute.

Based on the undisputed evidence of the landlord, it is my finding that the tenant was served with the Notice of Dispute Resolution Proceeding documentation necessary for them to fully participate in the dispute resolution process.

### Issue

Is the tenant 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 March 1, 2021 and ended around the end of October 2021. Monthly rent was \$2,000.00, and this was due on the first day of the month. The tenant paid a \$1,000.00 security deposit, which the landlord says she has not returned.

In this application, the landlord seeks \$2,000.00 for rent for each of September and October 2021, totalling \$4,000. She confirmed that she previously obtained a monetary order for unpaid rent for August (see Direct Request File referenced on the cover page of this Decision for more information). The landlord also seeks \$163.73 in compensation for an unpaid water bill. A copy of a bill was in evidence, along with a copy of the tenancy agreement. Last, the landlord seeks to recover the \$100.00 filing fee.

As an aside, the application indicated that the landlord sought \$6,000.00 for damages that may have been caused to the rental unit. However, no supporting evidence was provided in respect of this claim; this aspect of the landlord's claim is dismissed.

### Analysis

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

Section 26 of the Act states that a tenant must pay rent when it is due under the tenancy agreement, unless the tenant has a right under the Act to deduct all or a portion of the rent. The tenancy agreement for this tenancy requires that the tenant pay rent on the first day of the month. The tenant was also required to pay a portion of the water bill.

Section 67 of the Act permits an arbitrator to determine the amount of, and order a party to pay, compensation to another party if damage or loss results from a party not complying with the Act, the regulations, or a tenancy agreement.

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.

Taking into consideration all the undisputed evidence before me, it is my finding that the landlord has proven, on a balance of probabilities, that she is entitled to compensation in the amount of \$4,263.73 (comprising \$4,000.00 for unpaid rent, \$163.72 for unpaid hydro, and \$100.00 for the application filing fee).

Section 38(4)(b) of the Act permits me to authorize a landlord to retain a tenant's security deposit after the end of a tenancy. As such, the landlord is hereby ordered to retain the tenant's security deposit of \$1,000.00 in partial satisfaction of the amount awarded.

The balance of the award (\$3,263.73) is granted by way of a monetary order. A copy of this monetary order is issued in conjunction with this decision, to the landlord. It is the landlord's responsibility to serve a copy of the monetary order on the tenant.

### Conclusion

The landlord's application is hereby **GRANTED**.

This decision is final and binding on the parties, and it is made on delegated authority under section 9.1(1) of the Act. A party's right to appeal this decision is limited to grounds provided under section 79 of the Act or by way of an application for judicial review under the *Judicial Review Procedure Act*, RSBC 1996, c. 241.

Dated: May 17, 2022

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Residential Tenancy Branch