



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ONE IN ALL SERVICES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **MNDL-S, FFL**

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on January 10, 2022 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage or loss;
- an order to retain the security deposit; and
- an order granting recovery of the filing fee.

The hearing was scheduled for 1:30pm on August 22, 2022 as a teleconference hearing. Only the Landlord's Agent attended the hearing at the appointed date and time. No one appeared for the Tenant. The conference call line remained open and was monitored for 10 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Landlord's Agent and I were the only persons who had called into this teleconference.

The Landlord's Agent testified the Application and documentary evidence package was served to the Tenant by registered mail on January 18, 2022 and again on January 21, 2022. A copy of the Canada Post registered mail receipts were submitted in support. The Landlord's Agent stated that the packages were mailed to the Tenant's forwarding address which they had provided the Landlord in writing. Based on the oral and written submissions of the Applicant, and in accordance with sections 89 and 90 of the *Act*, I find that the Tenant is deemed to have been served with the Application and documentary evidence on the fifth day after their registered mailings. The Tenant did not any documentary evidence in response to the Application.

The Landlord's Agent was provided with a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to a monetary order for damage to the rental unit, pursuant to Section 67 of the *Act*?
2. Is the Landlord entitled to retaining the security deposit, pursuant to Section 38, and 72 of the *Act*?
3. Is the Landlord entitled to an order granting recovery of the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The Landlord's Agent testified that the tenancy began on May 1, 2019. During the tenancy, the Tenant was required to pay rent in the amount of \$1,400.00 to the Landlord on the first day of each month. The Tenant paid a security deposit in the amount of \$700.00 which the Landlord continues to hold. The Landlord's Agent stated that the tenancy ended on December 31, 2021.

The Landlord submitted a monetary order worksheet containing two monetary claims which are outlined below;

The Landlord is claiming \$1,155.00 in relation to a bathroom wall repair. The Landlord's Agent stated that during the tenancy, the Tenant damaged the bathroom wall in two areas, causing a hole in the drywall and the tiles. The Landlord provided a copy of the condition inspection report as well as several pictures of the damage in support.

The Landlord is also claiming \$475.13 in relation to cleaning the rental unit, and the drapes at the end of the tenancy. During the hearing, the Landlord's Agent referred to a receipt they submitted, however, no receipt was located in the Landlord's evidence.

No one appeared for the Tenant to dispute the Landlord's claims.

Analysis

Based on the uncontested oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 67 of the *Act* empowers me to order one party to pay compensation to the other if damage or loss results from a party not complying with the *Act*, regulations or a tenancy agreement.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided for in sections 7 and 67 of the *Act*. An applicant must prove the following:

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

In this case, the burden of proof is on the Landlord to prove the existence of the damage or loss, and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Tenant. Once that has been established, the Landlord must then provide evidence that can verify the value of the loss or damage. Finally, it must be proven that the Landlord did what was reasonable to minimize the damage or losses that were incurred.

The Landlord is claiming \$1,155.00 in relation to repairing the bathroom wall and tiles. I find that the Landlord has provided sufficient evidence to demonstrate that the Tenant damaged the bathroom wall during the tenancy. I am satisfied that the Landlord would have been required to fix the bathroom wall. As such, I award the Landlord compensation in the amount of **\$1,155.00**.

With respect to the Landlord's claim for cleaning, I find that the Landlord provided insufficient evidence to demonstrate that the rental unit required further cleaning at the end of the tenancy. As such, I dismiss this claim without leave to reapply.

Having been partially successful, I find the Landlord is entitled to recover the **\$100.00** filing fee paid to make the Application. I also find it appropriate in the circumstances to

order that the Landlord retain the security deposit in the amount of \$700.00 in partial satisfaction of the claim.

Pursuant to section 67 of the *Act*, I find the Landlord is entitled to a monetary order in the amount of \$555.00, which has been calculated below;

Claim	Amount
Bathroom wall repair:	\$1,155.00
Filing fee:	\$100.00
<i>LESS</i> security deposit:	-(<i>\$700.00</i>)
TOTAL:	\$555.00

Conclusion

The Landlord has established an entitlement to monetary compensation and has been provided with a monetary order in the amount of **\$555.00**. The order should be served to the Tenant as soon as possible and may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: August 23, 2022

Residential Tenancy Branch