



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDCL-S, MNRL-S, FFL

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord December 21, 2021 (the “Application”). The Landlord applied as follows:

- For compensation for monetary loss or other money owed
- To recover unpaid rent
- To keep the security and/or pet damage deposits
- For reimbursement for the filing fee

The Landlord attended the hearing with the Co-landlord (the “Landlords”). Nobody attended the hearing for the Tenant. I explained the hearing process to the Landlords. I told the Landlords they are not allowed to record the hearing pursuant to the Rules of Procedure (the “Rules”). The Landlords provided affirmed testimony.

The Landlords withdrew their request to keep the security and/or pet damage deposits.

The Landlord submitted evidence prior to the hearing. The Tenant did not submit evidence. I addressed service of the hearing package and Landlord’s evidence. The Landlords testified that they emailed the hearing package and their evidence to the Tenant pursuant to the Substituted Service Decision issued in this matter. The Landlords submitted the email showing it was sent March 13, 2022.

Based on the undisputed testimony of the Landlords and email of service, I am satisfied the Tenant was served with the hearing package and Landlord’s evidence in accordance with the Substituted Service Decision on March 13, 2022, and therefore the

Tenant is deemed to have received the documents March 16, 2022. Pursuant to section 71(2) of the *Act*, I find the method and date of service sufficient.

Given I was satisfied of service, I proceeded with the hearing in the absence of the Tenant. The Landlords were given an opportunity to present relevant evidence and make relevant submissions. I have considered all evidence provided. I will only refer to the evidence I find relevant in this decision.

### Issues to be Decided

1. Is the Landlord entitled to compensation for monetary loss or other money owed?
2. Is the Landlord entitled to recover unpaid rent?
3. Is the Landlord entitled to reimbursement for the filing fee?

### Background and Evidence

The Landlords sought the following compensation:

Item	Description	Amount
1	Court filing fee	\$120.00
2	Garbage removal	\$37.49
3	Garbage removal	\$23.73
4	Court bailiff	\$2,121.43
5	Rent	\$1,432.26
6	Filing fee	\$100.00
	<b>TOTAL</b>	<b>\$3,834.91</b>

A written tenancy agreement was submitted. The agreement is between the Tenant and a previous owner of the property. The Landlords purchased the property and became the landlords September 07, 2021. Rent was \$1,200.00 per month due on the first day of each month.

The Landlords testified that the tenancy ended December 07, 2021.

The Landlords testified that they received an Order of Possession for the rental unit from the RTB and served this on the Tenant. The Landlords testified that the Tenant

did not comply with the Order of Possession and remained in the rental unit. The Landlords testified that they had to file the Order of Possession in the BC Supreme Court which cost \$120.00. The Landlords testified that they had to have a bailiff come and remove the Tenant from the rental unit which cost \$2,121.43.

The Landlords testified that the Tenant left items in the rental unit at the end of the tenancy that the movers would not take and therefore the Landlords had to take these items to the dump which cost \$37.49 and \$23.73.

The Landlords testified that the Tenant owes \$1,432.26 in rent. The Landlords testified that the Tenant did not pay rent for November and for the days they lived in the rental unit in December and did not have authority to withhold this rent.

The Landlords sought an order that they be allowed to serve any orders issued in this Decision on the Tenant by email as allowed in the Substituted Service Decision.

The Landlords submitted a Writ of Possession showing it was enforced December 07, 2021. The Landlords submitted receipts and invoices for the amounts claimed.

### Analysis

Section 7 of the *Act* states:

7 (1) If a...tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying...tenant must compensate the [landlord] for damage or loss that results.

(2) A landlord...who claims compensation for damage or loss that results from the [tenant's] non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Policy Guideline 16 deals with compensation for damage or loss and states in part the following:

It is up to the party who is claiming compensation to provide evidence to establish that compensation is due. In order to determine whether compensation is due, the arbitrator may determine whether:

- a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
- loss or damage has resulted from this non-compliance;
- the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

Pursuant to rule 6.6 of the Rules, it is the Landlord as applicant who has the onus to prove the claim. The standard of proof is on a balance of probabilities meaning it is more likely than not the facts occurred as claimed.

I accept the undisputed testimony of the Landlords and based on it, as well as the documentary evidence, I find the following.

**#1 Court filing fee \$120.00**

**#4 Court bailiff \$2,121.43**

Section 44(1)(f) of the *Act* states:

44 (1) A tenancy ends only if one or more of the following applies...

(f) the director orders that the tenancy is ended...

Section 77(3) of the *Act* states:

(3) Except as otherwise provided in this Part, a decision or an order of the director under this Part is final and binding on the parties.

I find the Landlords were issued an Order of Possession by the RTB, which was final and legally binding on the Tenant. I also find the tenancy ended with the Order of Possession and the Tenant was required to vacate the rental unit. I find the Tenant breached the *Act* and tenancy agreement by failing to vacate the rental unit pursuant to the Order of Possession and at the end of the tenancy. I find the Tenant's breach resulted in the Landlord having to file the Order of Possession in the BC Supreme Court and have a bailiff attend the rental unit and remove the Tenant. I find the breach by the Tenant resulted in the costs claimed of \$120.00 and \$2,121.43, and award the Landlord these amounts.

**#2 Garbage removal \$37.49**

**#3 Garbage removal \$23.73**

Section 37 of the *Act* states:

(2) When a tenant vacates a rental unit, the tenant must

(a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear...

I find the Tenant left items in the rental unit at the end of the tenancy in breach of section 37 of the *Act*. I find the Landlords had to remove the items and take them to the dump which cost \$37.49 and \$23.73. I award the Landlords \$61.22.

**#5 Rent \$1,432.26**

I find the Tenant was required to pay \$1,200.00 in rent per month pursuant to the tenancy agreement. I find the Tenant failed to pay rent for November and the days they lived in the rental unit in December. I find the Tenant did not have authority under the *Act* to withhold this rent. I find the Tenant owes the Landlord \$1,432.26.

**#6 Filing fee \$100.00**

Given the Landlord was successful in the Application, I award the Landlord reimbursement for the \$100.00 filing fee pursuant to section 72(1) of the *Act*.

### ***Summary***

In total, the Landlord is entitled to \$3,834.91 and is issued a Monetary Order in this amount pursuant to section 67 of the *Act*.

Pursuant to section 71 of the *Act*, I order that the Monetary Order issued in this Decision can be served on the Tenant by email to the email address noted in the Substituted Service Decision issued in this matter and that the Tenant is deemed to have received the Order three days after it is sent by email.

Conclusion

The Landlord is issued a Monetary Order in the amount of \$3,834.91. This Order must be served on the Tenant and, if the Tenant does not comply with the Order, it may be filed in the Provincial Court (Small Claims) and 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 *Act*.

Dated: August 26, 2022

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Residential Tenancy Branch