



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

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

- A monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- An order for the landlord to return the security deposit pursuant to section 38;
- An order requiring the landlord to reimburse the tenant for the filing fee pursuant to section 72.

The landlord attended this teleconference hearing and had opportunity to provide affirmed testimony, present evidence and make submissions. The hearing process was explained.

1. Attendance of Tenant

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional 12 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 no evidence was submitted in support of the tenant's claim, the tenant's claim is dismissed without leave to reapply.

2. Recording

The persons attending were cautioned that recordings of the hearing were not permitted pursuant to Rule 6.11 of the *Residential Tenancy Branch Rules*. They confirmed their understanding of the requirement and further confirmed they were not making recordings of the hearing.

3. Delivery of Decision

The landlord confirmed their email address to which a copy of the Decision and any Order will be sent.

4. Service of Documents

As the tenant did not attend the hearing, the landlord provided affirmed testimony that the landlord served the tenant with the Notice of Hearing and Application for Dispute Resolution by email pursuant to an Order for Substituted Service made by an Adjudicator on January 27, 2022.

The landlord testified they sent the documents and a copy of the Decision to the email address as set out in the Decision, thereby effecting service three days after sending, January 30, 2022. The landlord submitted a copy of the email to the tenant stating the documents were enclosed.

Further to the Order, the testimony and supporting evidence of the landlord, I find the landlord served the tenant on January 30, 2022, pursuant to the Act.

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 retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 72 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

Background and Evidence

As the tenant did not attend the hearing, the landlord provided uncontradicted testimony. While I have turned my mind to all the documentary evidence and the testimony, not all details of the landlord's submissions and arguments are reproduced here. Only relevant, admissible evidence is considered. The principal aspects of the claim and my findings around each are set out below.

The landlord submitted a comprehensive evidence package supporting the landlord's claims in all aspects.

The landlord submitted a copy of the tenancy agreement and provided the following details about the background of the tenancy:

ITEM	DETAILS
Type of tenancy	Monthly
Date of beginning	April 1, 2021
Date of ending	January 26, 2022

Monthly rent payable on 1 st	\$1,150.00
Security deposit	\$575.00

A condition inspection was not conducted on moving in. The landlord testified that the unit was in good condition in all relevant aspects and was new.

The tenant abandoned the unit on January 6, 2022, without providing forwarding address.

The tenant vacated owing the landlord \$2,300.00 in outstanding rent.

On checking the abandoned unit, the landlord observed damage to the unit because of which the landlord incurred cleaning and repair expenses for which they seek compensation. The landlord submitted photographs and receipts in support of their claim.

The landlord testified to the details of the claim as follows:

ITEM	AMOUNT
Rent outstanding	2,300.00
Cleaning	\$300.00
Repair expenses	\$71.74
TOTAL CLAIM	\$2,671.74

The landlord submitted the following in support of their claim for compensation: a Monetary Order worksheet, several photographs, receipts, copies of email correspondence with tenant, and a list of money transfers of rent.

At the beginning of the tenancy, the tenant provided a security deposit of \$575.00. The landlord requested authorization to apply the security deposit to any award. The landlord also requested reimbursement of the filing fee.

The landlord's claim is summarized:

ITEM	AMOUNT
Total claim for compensation, above	\$2,671.74
Reimbursement filing fee	\$100.00
(Less security deposit)	(575.00)
TOTAL CLAIM	\$2,196.74

The landlord requested a Monetary Order of **\$2,196.74**.

Analysis

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.

When an applicant seeks compensation under the Act, they must prove on a balance of probabilities all four of the following criteria before compensation may be awarded:

1. Has the respondent party (the tenant) to the tenancy agreement failed to comply with the Act, regulations, or the tenancy agreement?
2. If yes, did the loss or damage result from the non-compliance?
3. Has the applicant (landlord) proven the amount or value of their damage or loss?
4. Has the applicant done whatever is reasonable to minimize the damage or loss?

The above-noted criteria are based on sections 7 and 67 of the Act, which state:

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

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

. . .

67 Without limiting the general authority in section 62 (3) [. . .] if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

Each of the above four tests are considered in my findings.

I give substantial weight to the landlord's evidence as summarized above. Based on the uncontradicted credible evidence of the landlord with supporting documentary evidence, I find the landlord has met the burden of proof on a balance of probabilities with respect to all aspects of the claims.

Cleaning and Repairs

I accept the landlord's credible evidence and I find the tenant did not leave the unit in a reasonably clean or good condition as required under section 32 and the tenancy agreement.

I find the tenant's breach of the Act caused the landlord to incur the expenses claimed for which the landlord fairly seeks compensation. I find the expenses for cleaning and repairs are reasonable given the photographs, the landlord's testimony, and the remainder of the evidence.

I accept the landlord's evidence that they made reasonable efforts to mitigate loss and reduce expenses and carried out the work in a timely manner.

I find the landlord is entitled to reimbursement of the cleaning and repair expenses as claimed.

Outstanding Rent

In this case, the onus is on the landlord to prove the landlord is entitled a claim for a monetary award for outstanding rent. The landlord provided believable testimony supported in all material aspects by well-organized and comprehensive documents including a copy of the tenancy agreement, a list of rent transfers and a Monetary Order Worksheet.

I have considered all the evidence submitted by the landlord including the tenancy agreement. I accept the landlord's testimony that the tenant vacated the unit leaving a balance of rent owing of \$2,300.00. I find the landlord has met the burden of proof with respect to the amount claimed in outstanding and accrued rent.

Filing Fee

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

Security deposit

I grant the landlord authorization to apply the security deposit to the award under section 72.

Monetary Order

Considering my ruling with respect to the filing fee and the security deposit, my final award is:

ITEM	AMOUNT
Total claim for compensation, above	\$2,671.74
Reimbursement filing fee	\$100.00
(Less security deposit)	(575.00)
TOTAL Monetary Order	\$2,196.74

Conclusion

I grant the landlord a Monetary Order of **\$2,196.74**. **This** Monetary Order must be served on the tenant. The Monetary Order may be filed and enforced in the courts of the province of BC.

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 16, 2022

Residential Tenancy Branch