



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PR LOTUS HOTEL LIMITED PARTNERSHIP  
and [tenant name suppressed to protect privacy]

## **DECISION**

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

### **Introduction**

This hearing dealt with the Landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

1. A Monetary Order to recover money for unpaid rent pursuant to Sections 38, 62 and 67 of the Act;
2. An Order for the Tenant to pay to repair the damage that they, their pets or their guests caused during their tenancy – holding security and/or pet damage deposit pursuant to Sections 38 and 67 of the Act;
3. An Order for compensation for a monetary loss or other money owed pursuant to Section 67 of the Act; and,
4. Recovery of the application filing fee pursuant to Section 72 of the Act.

The hearing was conducted via teleconference. The Landlord's Agent and Legal Counsel attended the hearing at the appointed date and time and provided affirmed testimony. The Tenant did not attend the hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord's Agent, Legal Counsel and I were the only ones who had called into this teleconference. The Landlord's Agent, and Legal Counsel were given a full opportunity to be heard, to make submissions, and to call witnesses.

I advised the Landlord's Agent and Legal Counsel that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. The Landlord's Agent and Legal Counsel stated that they were not recording this dispute resolution hearing.

The Landlord's Agent testified that they served the Tenant with the Notice of Dispute Resolution Proceeding package on January 28, 2022 by Canada Post registered mail (the "NoDRP package"). The Landlord's Agent referred me to the Canada Post registered mail tracking number submitted into documentary evidence as proof of service. I noted the registered mail tracking number on the cover sheet of this decision. I find that the Tenant was deemed served with the NoDRP package five days after mailing them on February 2, 2022 in accordance with Sections 89(1)(c) and 90(a) of the Act.

The Landlord's Agent stated the Landlord's evidence was served by Canada Post registered mail on July 28, 2022. The Landlord's Agent referred me to the Canada Post registered mail tracking number submitted into documentary evidence as proof of service. I noted the registered mail tracking number on the cover sheet of this decision. I find that the Tenant was deemed served with the Landlord's evidence on August 2, 2022 pursuant to Sections 88(c) and 90(a) of the Act.

#### Preliminary Matter

##### *Monetary Amount*

RTB Rules of Procedure 4.2 allows for amendments to be made in circumstances where the amendment can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing. If an amendment to an application is sought at a hearing, an Amendment to an Application for Dispute Resolution need not be submitted or served. On this basis, I accept the Landlord Agent's request to amend their original application from \$1,887.10 to 3,300.00 to reflect the unpaid rent that became owing by the time this hearing was convened.

#### Issues to be Decided

1. Is the Landlord entitled to a Monetary Order to recover money for unpaid rent?
2. Is the Landlord entitled to an Order for the Tenant to pay to repair the damage that they, their pets or their guests caused during their tenancy – holding security and/or pet damage deposit?
3. Is the Landlord entitled to an Order for compensation for a monetary loss or other money owed?

4. Is the Landlord entitled to a recovery of the application filing fee?

Background and Evidence

I have reviewed all written and oral evidence and submissions before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

Landlord's Agent confirmed that this tenancy began as a fixed term tenancy on June 15, 2020. The fixed term was to end on January 31, 2021. The Tenant abandoned the rental unit on January 10, 2021. Monthly rent is \$1,200.00 payable on the first day of each month. A security deposit of \$600.00 was collected at the start of the tenancy and is still held by the Landlord.

The Landlord's Agent stated they are requesting \$900.00 of unpaid rent from November 20, 2021, \$1,200.00 of unpaid rent from December 2021, and \$1,200.00 of unpaid rent from January 2022. The total amount for unpaid rent is \$3,300.00.

The Landlord uploaded photographic evidence of the state of the rental unit after the Tenant vacated. The Landlord is claiming cleaning costs of \$150.00, painting costs of \$577.50, and a blinds replacement cost of \$389.09.

The Landlord applied for authorization to serve the Tenant with legal documents by email. The August 19, 2022 substituted service decision dismissed the Landlord's application as they found the most recent email sent by the Tenant was over a year and a half, and the Landlord had not demonstrated that the email address was currently active. The Landlord seeks compensation of \$288.75 for skip tracing to locate the Tenant.

The Landlord's Agent testified that a move-in condition inspection was completed on June 8, 2020 which the Tenant participated in. The Landlord completed the move-out condition inspection on January 10, 2021 which the Tenant did not participate in. The Landlord's Agent stated the Tenant has not provided his forwarding address to the Landlord. The Landlord uploaded a copy of the move-in/move-out condition inspection report.

## 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.

This hearing was conducted pursuant to RTB Rules of Procedure 7.3, in the Tenant's absence, therefore, all the Landlord's testimony is undisputed. Rules of Procedure 7.3 states:

***Consequences of not attending the hearing:*** *If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.*

Section 26(1) of the Act specifies the rules about payment of rent. It states, a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Based on the undisputed testimony of the Landlord's Agent about unpaid rent, I find the Tenant owes the Landlord **\$3,300.00** for the unpaid rent for November and December 2021, and January 2022.

## ***Leaving the rental unit at the end of a tenancy***

**37** ...

- (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, and*

RTB Policy Guideline #16-Compensation for Damage or Loss addresses the criteria for awarding compensation to an affected party. This guideline states, "*The purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. It is up to the party who is claiming compensation to provide evidence to establish that compensation is due.*" This section must be read in conjunction with Section 67 of the Act.

Policy Guideline #16 asks me to analyze 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.

The Landlord's Agent testified that the Tenant did not leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear at the end of his tenancy. Cleaners performed a deep cleaning of the rental unit, and the invoice share for the rental unit was **\$150.00**. I find this is a reasonable cost for a deep cleaning of the rental unit.

The Landlord's Agent testified that wall repair and painting were required in the rental unit. The invoiced amount for this loss/damage was **\$577.50**. This expense included a complete painting for the rental unit. I find the invoiced amount reasonable for the work done.

The Landlord had to replace a blind set that was removed from the rental unit. The invoice amount for the supply and install of the blind was **\$389.09**. I find this cost reasonable for the blind replacement.

The Landlord also seeks compensation for the use of a skip tracer to find the Tenant for this rental unit as the Tenant did not provide a forwarding address. The Landlord attempted to seek authorization to serve the Tenant by email, but the adjudicator was not satisfied that the email address offered was actively current. I find the expense of the skip tracer was necessary for the Landlord to find the Tenant and I grant this compensation of **\$288.75**.

I find that the Tenant breached Section 37(2)(a) of the Act. This breach of the Act resulted in loss or damage to the residential property which the Landlord had to clean up. The Landlord's Agent uploaded receipts for the cleaning time, wall repair and painting and the cost for a replacement blind in the rental unit. I also find the expense of the skip tracer was a necessary expense incurred by the Landlord and must be compensated. I find the Landlord has proven this part of their monetary claim.

Accordingly, I find that the Tenant owes **\$1,405.34** to the Landlord for the loss or damage the Landlord incurred in this tenancy.

In addition, having been successful, I find the Landlord is entitled to recover the application filing fee paid to start this application, which I order may be deducted from the security deposit held pursuant to Section 72(2)(b) of the Act. The Landlord has proven most of their claims for compensation, and their monetary order is calculated as follows:

Item	Amount
Total unpaid rent	\$3,300.00
Deep cleaning	\$150.00
Wall repair and painting	\$577.50
Blind replacement	\$389.09
Skip tracer	\$288.75
Less security deposit	-\$600.00
Plus application filing fee	\$100.00
<b>TOTAL MONETARY AWARD:</b>	<b>\$4,205.34</b>

### Conclusion

I grant a Monetary Order to the Landlord in the amount of \$4,205.34. The Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court of British Columbia 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: September 14, 2022

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Residential Tenancy Branch