



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding TS VENTURES INC.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDL-S, MNRL, MNDCL, FFL

### Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Landlord under the *Residential Tenancy Act* (the Act) on January 23, 2022, seeking:

- Recovery of unpaid rent;
- Monetary compensation for the cost of repairs to the rental unit;
- Compensation for monetary loss or other money owed;
- Recovery of the filing fee; and
- Retention of the security deposit.

The hearing was convened by telephone conference call on October 3, 2022, at 1:30 P.M. (Pacific Time), and was attended by the owner of the corporation named as the Landlord, T.C., who provided affirmed testimony. No one appeared on behalf of the Tenant. T.C. was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Residential Tenancy Branch Rules of Procedure (the Rules of Procedure) state that the respondent must be served with a copy of the Application, the Notice of Hearing, and any documentary evidence intended to be relied upon by the applicant at the hearing. As neither the Tenant nor an agent for the Tenant attended the hearing, I confirmed service of these documents as explained below.

T.C. stated that they tried serving the Tenant by email and in-person, but these attempts were unsuccessful. As a result, T.C. stated that they sought an order of substituted service from the Residential Tenancy Branch (the Branch). Branch records indicate that the Landlord was granted an order of substituted service on September 9, 2022, allowing them to serve the Tenant documents related to this Application at the Tenant's

business email. Branch records indicate that the Landlord was sent a copy of the substituted service decision by email on September 10, 2022. T.C. Stated that they emailed the Tenant the NODRP, a copy of the substituted service decision, and the documentary evidence before me from the Landlord for consideration, on September 12, 2022. As a result, I find that the Tenant was deemed served with the Application, the Notice of Hearing, the substituted service decision, and the documentary evidence before me from the Landlord for the purpose of the Act and the Rules of Procedure, on September 15, 2022, three days after they were sent by email.

Rule 7.1 of the Rules of Procedure states that the dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator. I verified that the hearing information contained in the NODRP was correct, and I note that the T.C. had no difficulty attending the hearing on time using this information. As T.C. and I attended the hearing on time and ready to proceed, and I was satisfied as set out above that the Tenant was deemed served with the NODRP for the purpose of the Act on September 15, 2022, I therefore commenced the hearing as scheduled at 1:30 P.M. on October 3, 2022, despite the absence of the Tenant, pursuant to rule 7.3 of the Rules of Procedure. Although the teleconference remained open for the full duration of the hearing, no one attended the hearing on behalf of the Tenant.

T.C. was advised that pursuant to rule 6.10 of the Rules of Procedure, interruptions and inappropriate behavior would not be permitted and could result in limitations on participation, such as being muted, or exclusion from the proceedings. T.C. was asked to refrain from speaking over myself and to hold their questions and responses until it was their opportunity to speak. T.C. was also advised that pursuant to rule 6.11 of the Rules of Procedure, recordings of the proceedings are prohibited, except as allowable under rule 6.12, and the parties confirmed that they were not recording the proceedings.

Although I have reviewed all evidence and testimony before me that was accepted for consideration in accordance with the Rules of Procedure, I refer only to the relevant and determinative facts, evidence, and issues in this decision.

At the request of T.C., copies of the decision and any orders issued in favor of the Landlord will be emailed to them at the email address listed in the Application and confirmed at the hearing.

Issue(s) to be Decided

Is the Landlord entitled to recovery of unpaid rent?

Is the Landlord entitled to monetary compensation for the cost of repairs to the rental unit?

Is the Landlord entitled to compensation for monetary loss or other money owed?

Is the Landlord entitled to recovery of the filing fee?

Is the Landlord entitled to retain the security deposit?

Background and Evidence

The tenancy agreement in the documentary evidence before me indicates that the periodic (month-to-month) tenancy commenced on July 1, 2021, and that rent in the amount of \$1,200.00 is due on the first day of each month. The tenancy agreement states that a security deposit in the amount of \$600.00 was required and at the hearing T.C. stated that this was paid and is held in trust by the Landlord.

T.C. stated that the Tenant was sent a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the 10 Day Notice) on December 3, 2021, by registered mail, which was returned to sender on approximately December 24, 2021. T.C. stated that in mid-January they were alerted by the person they hire to clear snow at the property that there had been no foot traffic through the snow, so they asked them to check on the Tenant/rental unit, and were told that they could see through the windows that the rental unit was empty. T.C. stated that this is how they learned that the Tenant had vacated/abandoned the rental unit and that the Tenant had therefore not left them a forwarding address. T.C. stated that the Tenant currently owes \$200.00 in outstanding rent for October of 2021, \$1,200.00 per month in rent for November and December of 2021, and \$1,200.00 in rent/lost rent for January of 2022.

T.C. stated that the Tenant also failed to return the keys to the rental unit, mailbox, and a padlock, failed to replace light bulbs that had burnt out during the tenancy, failed to leave the rental unit reasonably clean at the end of the tenancy, and that the Tenant's pet had damaged the blinds. The Landlord therefore sought recovery of the following costs:

- \$116.56 in compensation for the cost of replacing lightbulbs, keys, and a deadbolt;
- \$236.35 in carpet cleaning and pet odor removal costs;
- \$172.19 for the cost of replacing curtains and rods damaged by the Tenant's pet;
- \$157.18 in cleaning supplies;
- \$100.00 for the cost of garbage disposal;
- \$151.85 in hotel costs incurred by them to attend, clean, and repair the rental unit and replace the locks;
- \$16.94 in registered mail fees; and
- \$100.00 for recovery of the filing fee.

In support of their Application and testimony, the Landlord submitted a monetary order worksheet, receipts, photographs, a condition inspection report, and copies of text message correspondence with the Tenant. Although the teleconference remained open for the full duration of the hearing, no one attended on behalf of the Tenant to provide any evidence or testimony for my consideration.

### Analysis

Section 37(1)(2) of the Act states that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged. Section 7 of the Act states that if a landlord or tenant does not comply with the Act, regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

From the uncontested affirmed testimony of the Landlord and the documentary evidence before me, I am satisfied on a balance of probabilities that the Tenants failed to leave the rental unit reasonably clean and undamaged, except for pre-existing damage, at the end of the tenancy, as required by section 37(2)(a) the Act. I am also satisfied that the Landlord incurred the costs sought at the hearing to return the rental unit to the required level of cleanliness and repair after the end of the tenancy. As a result, I grant the Landlord the \$934.13 sought at the hearing for cleaning, repair, garbage disposal, and hotel costs.

Based on the documentary evidence before me and the Landlord's affirmed an uncontested testimony, I am satisfied that rent in the amount of \$1,200.00 is due on the first day of each month under the tenancy agreement. Section 26 of the Act states that a tenant must pay rent when it is due under the tenancy agreement, whether or not the

landlord complies with the Act, the regulations, or the tenancy agreement, unless the tenant has a right under the Act to deduct all or a portion of the rent. As there is no evidence before me that the Tenant had a right under the Act to deduct all or a portion of the rent, I find that they did not. Section 57(3) of the Act also states that a landlord may claim compensation from an over holding tenant for any period that the over holding tenant occupies the rental unit after the tenancy is ended.

I am satisfied by the Landlord's testimony that they became aware that the Tenant abandoned the rental unit sometime in January of 2022, without notice to the Landlord. I am also satisfied that the Tenant owes \$200.00 in outstanding rent from October of 2022, and that the Tenant did not pay any rent in the months of November and December 2021, or January 2022. As a result, I grant the Landlord's claim for recovery of unpaid rent/compensation for overholding/lost rent in the amount of \$3,800.00.

Although the Landlord sought \$16.94 for recovery of registered mail fees, I decline to award the Landlord recovery of these costs as the Landlord chose to send documents to the Tenant by registered mail. As a result, I find that the Landlord shall bear these costs. However, as the Landlord was successful in the majority of the claims made in the Application, I grant them recovery of the \$100.00 filing fee pursuant to section 72(1) of the Act.

Having made these findings, I will now turn to the matter of the security deposit. As there is no evidence before me that the Landlord extinguish their right to claim against the security deposit, I find that they did not. I accept T.C.'s affirmed and undisputed testimony that the Tenant did not provide a forwarding address at the end of the tenancy, and I therefore find that the requirement for the Landlord to return the security deposit to the Tenant or file a claim against it under section 38(1) of the Act was not triggered and that the Landlord was therefore entitled to retain the Tenant's security deposit pending the outcome of this Application.

Pursuant to section 72(2)(b) of the Act, I therefore grant the Landlord authority to withhold the \$600.00 security deposit in partial repayment of the above noted amounts owed to the Landlord. Pursuant to section 67 of the Act, I grant the Landlord a Monetary Order in the amount of **\$4,234.13**, for the balance owed, and I order the Tenant to pay this amount to the Landlord.

Conclusion

The Landlord is entitled to retain the Tenant's \$600.00 security deposit in partial repayment of amounts owed.

Pursuant to section 67 of the Act, I grant the Landlord a Monetary Order in the amount of **\$4,234.13**. The Landlord is provided with this Order in the above terms and 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 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 *Residential Tenancy Act*.

Dated: October 05, 2022

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Residential Tenancy Branch