



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

This hearing was convened as a result of the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) a monetary order for \$10,695 for damages to the unit, site or property, for unpaid rent or utilities, for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, to retain the tenant's security deposit towards any amount owing, and to recover the cost of the filing fee.

The landlord owner, HA (landlord) and their agent, OA (agent) attended the teleconference hearing and gave affirmed testimony. During the hearing the landlord and their agent were given the opportunity to provide their evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing. Words utilizing the singular shall also include the plural and vice versa where the context requires.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated April 26, 2022 (Notice of Hearing A) and December 6, 2022 (Notice of Hearing B), application and documentary evidence (Hearing Packages) were considered. The landlord testified that the Notice of Hearing A and B, application and documentary evidence were served on the tenant by email on April 26, 2022 and December 27, 2022. Submitted in evidence to support that service by email was permitted is Form 51 signed and dated and confirming the email address of the tenant, which has been included on the cover page of this decision for ease of reference.

Pursuant to section Residential Tenancy Regulation section 44, which states that documents served by email are deemed served three days after they are emailed, I find the tenant was deemed served on April 29, 2022 and December 30, 2022 respectively.

Residential Tenancy Branch (RTB) Rule 7.3 of the Rules of Procedure (Rules) applies and states the following:

Rule 7.3 Consequences of not attending the hearing

The arbitrator may conduct the hearing in the absence of a party or dismiss the application, with or without leave to re-apply.

Based on the above, I find this matter to be unopposed by the tenant and the hearing continued without the tenant present.

Preliminary and Procedural Matter

As the email addresses for both parties were confirmed at the outset of the hearing, this decision will be emailed to both parties.

Issues to be Decided

- Is the landlord entitled to a monetary order under the Act, and if so, in what amount?
- What should happen to the tenant's security deposit under the Act?
- Is the landlord entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on June 1, 2021 and was scheduled to convert to a month-to-month tenancy after May 31, 2022. The agent testified that the tenant vacated the rental unit prior to the end of the fixed-term tenancy on April 3, 2022. The monthly rent during the tenancy was \$1,499 and was due on the first day of each month. The landlord stated that the tenant paid a security deposit of \$749.50 at the start of the tenancy, which will be addressed later in this decision.

The landlord's monetary claim of \$10,695 is comprised as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Unpaid rent	\$1,528
2. Damages	\$6,069
3. Rental loss for months of April and May 2022	\$2,998

4. Filing fee	\$100
TOTAL	\$10,695

Regarding item 1, the landlord and agent testified that March 2022 rent arrears of \$1,528 are still owed by the tenant.

Regarding item 2, the landlord has claimed \$6,069 for damages, which involves cleaning also. The agent testified that the tenant glued decorations to the rental unit without permission and caused damage. The landlord presented the incoming and outgoing Condition Inspection Report (CIR) which supports their testimony. The landlord testified that the tenant and their visitors who attended the rental unit to use illegal drugs stole the shower head and the exhaust fan which were missing after the tenant vacated, and damaged the following:

- Baseboard heater
- Bedroom door
- Walls
- Countertop
- Door lock and door knob
- Sink and vanity
- Burned washroom wall
- Main door

In addition, the following was listed as dirty and in need of thorough cleaning:

- Dirty oven
- Dirty kitchen drawers
- Dirty fridge
- Dirty cabinets
- Dirty baseboards
- Dirty walls
- Dirty toilet with stickers from tenant

The landlord submitted the following documents in support of the amount claimed which I have reproduced in part:

Description	Quantity	Rate	Amount
REPLACE CABINET DOOR 15x30	1	\$75.00	\$75.00
,REMOVE AND DISPOSE 4CAR TIRES AND FURNITURES AND MATERIALS	1	\$450.00	\$450.00
REPLACE BROKEN BLINDS	3	\$120.00	\$360.00
PIANT AND TOUCH UP WALLS ,DOORS AND TRIMS	1	\$240.00	\$240.00
Labour Subtotal			\$1,125.00
Subtotal			\$1,125.00
GST 5%			\$56.25
Total			\$1,181.25

Total \$1,181.25

Description	Quantity	Rate	Amount
REPAIRED WALLS	1	\$450.00	\$450.00
PAINTING 1BD APARTMENT INCLUDING DOORS,TRIMS,WALLS AND CEILING	1	\$2,600.00	\$2,600.00
REPLACED BROKEN BEDROOM DOOR	1	\$350.00	\$350.00
REPAIRED BURNT WASHROOM WALLS,REMOVED SHELVES,REPLACED WATER DAMAGED BASEBOARDS,RE INSTALLED VANITY,INSTALLED MISSING TRANSITION BAR AND PAINT BATHROOM	1	\$1,150.00	\$1,150.00
REPAIRED COUNTERTOP EDGE TAPES	1	\$250.00	\$250.00
REPLACED BATHROOM EXUST FAN	1	\$350.00	\$350.00
REPLACED ENTRY DOOR DEADBOLT AND DOOR KNOB	1	\$210.00	\$210.00
GARBAGE REMOVAL AND DETAILED JANITORIAL	1	\$260.00	\$260.00
REPAIRED AND PAINT COMMON AREA AND BACK STAIRCASE	1	\$160.00	\$160.00
Labour Subtotal			\$5,780.00

Item	Quantity	Rate	Amount
Cleaning unit [REDACTED] street, New Westminster. BC	8	\$25.00	\$200.00

Total: \$200.00

[rental unit address removed for privacy purposes]

The landlord also submitted many photos supporting all of the damage which the agent stated was fair beyond wear and tear, which I will address later in this decision.

Regarding item 3, the landlord has claimed \$2,998 for the following reason:

April rent loss because tenant didn't give a 30 days notice and moved out April 3rd 2022, and left the place in no condition to show to potential tenants due to damages = \$1499.00 Breach of one year lease agreement ending May31, 2022 by the tenant and thus the rent for May 2022 = \$1499.00
[reproduced as written]

During the hearing, however, the agent confirmed that May 2022 rent is no longer being claimed as they were able to re-rent the rental unit effective May 1, 2022 for the same amount of monthly rent. As such, May 2022 rent will not be considered further. I find the reduced portion of this item is now \$1,499 as a result of the above.

Item 4 is the filing fee, which I will address later in this decision.

Analysis

Based on the undisputed documentary evidence and the undisputed testimony of the landlords provided during the hearing, and on the balance of probabilities, I find the following.

As the tenant was served with the two Hearing Packages and did not attend the hearing, and as noted above, I consider this matter to be unopposed by the tenant. As a result, I find the landlord's monetary claim, with the exception of May 2022 rent which was not granted as the landlord was able to mitigate their loss of May 2022 by re-renting the rental unit, is otherwise fully successful in the amount of **\$9,196** as indicated above and includes the recovery of the cost of the filing fee pursuant to section 72 of the Act in the amount of \$100 as the landlords' application is successful. I have considered the undisputed testimony of the landlords and that the application was unopposed by the tenant.

I find the tenant breached section 26 of the Act by failing to pay rent and breached a fixed-term tenancy contrary to section 45(2) of the Act.

I also find the tenant breached section 37 of the Act that requires the tenant to leave the rental unit reasonably clean and undamaged, less reasonable wear and tear. I find the damage caused by the tenant was purposeful and negligent and exceeds reasonable wear and tear. I decline to apply depreciation due to the purposeful damage.

As the landlords continues to hold the tenant's security deposit of \$749.50, which has accrued **\$1.32** in interest under the Act, for a total security deposit including interest of \$750.82.

I authorize the landlord to retain the tenant's full \$750.82 security deposit including interest in partial satisfaction of the monetary award, and I grant the landlord a monetary order pursuant to section 67 of the Act, for the balance owing by the tenant to the landlords of **\$8,445.18**.

I caution the tenant to comply with sections 26, 37 and 45(2) of the Act in the future.

Conclusion

The landlord's reduced monetary claim is fully successful.

The landlord has established a total monetary claim of \$9,196 and has been authorized to retain the tenant's full security deposit including interest of \$750.82. The landlord has also been granted a monetary order pursuant to section 67 of the Act, in the balance owing by the tenant to the landlord of \$8,445.18.

Should the landlord require enforcement of the monetary order, the landlord must serve the tenant with the monetary order and may enforce the monetary order in the Provincial Court (Small Claims Division).

This decision will be emailed to both parties.

The monetary order will be emailed to the landlord only for service on the tenant.

The tenant has been cautioned as noted above and is reminded that they can be held liable for all costs related to enforcement of the monetary order, including court costs.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: February 2, 2023

Residential Tenancy Branch