



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

### **Introduction**

This hearing dealt with two applications pursuant to the *Residential Tenancy Act* (Act). The Landlords' application for:

- A Monetary Order of \$1,390.00 for compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act
- A Monetary Order of \$220.00 for compensation for monetary loss or money owed
- Authorization to retain all or a portion of the Tenant's security deposit in partial satisfaction of the Monetary Order requested under section 38 of the Act
- Reimbursement of the filing fee

And the Tenant's application for:

- Double the return of security deposit that the Landlord is retaining without cause
- Reimbursement of the filing fee

Those listed on the cover page of this decision attended the hearing and were affirmed. Words utilizing the singular shall also include the plural and vice versa where the context requires.

### **Service of Notice of Dispute Resolution Proceeding (Proceeding Package) and Evidence**

The Tenant testified that they received the Proceeding Package from the Landlord. The Tenant testified that they did not receive any documentary evidence from the Landlord.

The Landlord testified that they served the Proceeding Package and documentary evidence via registered mail to the Tenant. The Landlord submitted the Canada Post Customer Receipts and tracking numbers to confirm this service.

I find that the Tenant was served on May 6, 2024, by registered mail in accordance with section 89(1) and 90 of the Act, the fifth day after the registered mailing.

The Landlord testified that they did not receive the Proceeding Package and documentary evidence from the Tenant.

The Tenant testified that they served via registered mail to the Landlord the Proceeding Package and documentary evidence. The Tenant submitted the Canada Post Customer Receipt and tracking number to confirm this service. The Canada Post tracking shows that the mailed package was not claimed. The Landlord confirmed their address during the hearing. I find the package was sent to the correct address of the Landlord, as supported by the documentary evidence of the Canada Post Customer Receipt.

I find that the Landlord was served on April 30, 2024, by registered mail in accordance with section 89(1) and 90 of the Act, the fifth day after the registered mailing.

Both parties agreed to proceed with the hearing.

### **Preliminary Matters**

At the outset of the hearing the Tenant provided their full legal name as listed on their application for dispute resolution.

Based on the above, the Tenant's application details, and as per Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 7.12, I amended the Landlord's application to include the correct name of the Tenant.

The Landlord testified that they would like to withdraw their claim of \$20.00, for the replacement of light bulbs in the rental unit. As such, this claim is dismissed without leave to reapply.

### **Issue(s) to be Decided**

Is the Landlord entitled to a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act?

Is the Landlord entitled to retain all or a portion of the Tenant's security deposit in partial satisfaction of the Monetary Order requested under section 38 of the Act, or is the Tenant entitled to the return of the security deposit that the Landlord is retaining without cause?

Is the Landlord entitled to recover the filing fee?

Is the Tenant entitled to recover the filing fee?

## **Background and Evidence**

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

The rental unit is a condominium in a building (the Building).

Both parties agreed to the following tenancy details:

- This tenancy started on July 1, 2013, and ended on April 29, 2023
- The monthly rent was \$1,900.00
- The Tenant paid a security deposit in the amount of \$750.00, which the Landlord continue to hold in trust
- The parties did not complete or sign a move in inspection Condition Inspection Report (CIR)
- The move out CIR was completed on April 30, 2023, at which time the Tenant disagreed with the move out CIR and did not sign the move out CIR
- On April 30, 2023, the Tenant provided their forwarding address in writing to the Landlord

The Landlord testified that they did not complete the move in CIR, however, both parties inspected the rental unit, signed the Tenancy Agreement (TA), and acknowledged the acceptable and good condition of the rental unit. The TA was submitted in evidence, and Clause 11 references the condition of the property.

The Landlord is seeking a monetary order as follows:

Item 1 - \$70.00, for replacement of a broken fob device. The Landlord testified that the fob device was returned to them, and was broken. The Landlord stated that they replaced the fob device at the cost of \$70.00.

The Tenant admitted that the fob device was damaged, and that they communicated the same to the Landlord. The Tenant stated that they are willing to pay the replacement cost of \$70.00.

Item 2 - \$1,100.00 for broken doors. The Landlord testified that two of the bedroom closet doors were damaged, and had broken and smashed glass. The Landlord submitted photographs and email communication dated May 3, 2023, between them

and the Resident Manager of the Building. The Landlord testified that they replaced both doors at the cost of \$578.04, and they submitted the order status invoice with the paid amount as part of their documentary evidence.

When asked about the full claim of \$1,100.00 for the broken doors, the Landlord testified that they paid \$250.00 to a contractor for installation of the doors, and they submitted a money sent auto deposit transaction dated May 7, 2023. The Landlord testified that they also paid the contractor for additional costs, in the total amount of \$200.00.

The Tenant testified that the doors in the small bedroom was cracked at the start of the tenancy, when they occupied the rental unit. The Tenant testified that the other door was impacted by a flood that occurred in 2016. The Tenant stated that the door was removed, reinstalled, and the plastic wheels were missing. The Tenant testified that the door was not broken.

Item 3 - \$50.00, for mould removal. The Landlord testified that the Tenant failed to clean their bathroom, and they had to pay \$50.00 for mould removal.

The Tenant testified that mould was present in the bathroom at the start of the tenancy.

Item 4 - \$150.00 for cleaning services. The Landlord testified that the rental unit required full cleaning of the microwave, baseboards, flooring, carpets and bathrooms. The Landlord testified that on May 6, 2023, they paid \$150.00 for cleaning services. The Landlord submitted photographs as part of their documentary evidence.

The Tenant testified that they left the rental unit in a spotless condition. The Tenant testified that they cleaned the entire rental unit at the end of the tenancy.

Item 5 - \$220.00, for filing fee x 2 and registered mail costs. The Landlord testified that they are seeking the cost of the filing fee for this application, and for a prior dispute resolution proceeding. The Landlord testified that they are also seeking \$20.00 for the cost of registered mail that was sent to the Tenant.

## **Analysis**

**Is the Landlord entitled to a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act?**

Under section 67 of the Act, when a party makes a claim for damage or loss, the burden of proof lies with the applicant to establish the claim. In this case, to prove a loss, the Landlord must satisfy the following four elements on a balance of probabilities:

1. Proof that the damage or loss exists;
2. Proof that the damage or loss occurred due to the actions or neglect of the tenant in violation of the Act, Regulation or tenancy agreement;
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage; and
4. Proof that the landlord followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Based on the evidence before me, the testimony of the parties, and on a balance of probabilities, I find that the Landlord has established a claim for compensation for damage or loss under the Act, regulation or tenancy agreement as follows:

Item 1 - \$70.00, for replacement of a broken fob device. The Landlord submitted a photograph of the broken fob device, and the Tenant admitted that they are responsible for this item and the total replacement cost. I grant the Landlord a monetary award of \$70.00 for this item.

Item 2 - \$828.04 for replacement of and the installation costs for two broken doors. The documentary evidence provided by the Landlord, to include photographs and communication with the Resident Manager of the Building, support the damage or loss for these claims. Further, although the parties did not complete the move in CIR, I find they acknowledged the acceptable condition of the rental unit as per Clause 11 of the TA. I find the Landlord's documentary evidence of email communication also shows the parties walked through and inspected the rental unit at the start of the tenancy.

Section 37 of the Act states when a tenant vacates the rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. In this case, I find the Tenant violated section 37 of the Act. Based on the evidence before me and the balance of probabilities, I find it more likely than not that the damage to the doors resulted from the Tenant's actions during the tenancy, versus a flood that occurred in 2016.

I find the Landlord's documentary evidence shows proof of loss, in the amount of \$578.04 for replacement of the doors, and \$250.00 for an installation cost, for the total cost of \$828.04. As such, I grant the Landlord a monetary award in this amount.

I decline to award the Landlord the additional claim of \$200.00. I find the Landlord did not provide details to support this claim, such as the claimed damage or receipts to prove the actual amount of the claimed loss. As such, this claim is dismissed without leave to reapply.

I decline to award the Landlord the amount of \$50.00 for mould removal and \$150.00 for the cost of cleaning. I find the Landlord failed to provide proof of the claimed loss, such as receipts and invoices. Further, I find the Landlord's documentary evidence of photographs does not support the Landlord's testimony with respect to the condition of the rental unit at the end of the tenancy, and the required cleaning. As such, these claims are dismissed without leave to reapply.

I will address the cost of the filing fee for the current application later in this decision. I decline to award the cost of the filing fee for a prior dispute resolution matter as that matter is not before me. Further, I decline to award the cost of \$20.00 for registered mail. There is no remedy under the Act for this claim, and I dismiss this claim without leave to reapply.

### **Is the Landlord entitled to recover the filing fee?**

As the Landlord was successful in their application, I grant the Landlord the \$100.00 filing fee paid for this application under section 72 of the Act.

The Landlord is entitled to a monetary award in the amount of \$998.04 as follows:

- \$898.04, for compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act
- \$100.00 for the cost of the filing fee

### **Is the Landlord entitled to retain all or a portion of the Tenant's security deposit in partial satisfaction of the Monetary Order requested under section 38 of the Act, or is the Tenant entitled to the return of the security deposit that the Landlord is retaining without cause?**

Section 38 of the Act states that within 15 days of either the tenancy ending or the date that the landlord receives the tenant's forwarding address in writing, whichever is later, a landlord must repay a security deposit to the tenant or make an application for dispute resolution to claim against it. Section 38(6) states if a landlord does not comply with

subsection (1), the landlord may not make a claim against the security deposit and must pay the tenant double the amount of the security deposit.

On April 30, 2023, the Tenant provided their forwarding address in writing to the Landlord, and the Landlord made their application on April 23, 2024. I find that the Landlord did not make their application within 15 days of them receiving the Tenant's forwarding address in writing. As the Landlord failed to comply with subsection (1) of the Act, I find they must pay the Tenant double the amount of the security deposit.

The security deposit of \$750.00 has accrued \$26.12 in interest. I find that the Tenant is entitled to the amount of \$1,526.12, for double the return of the total security deposit, plus interest.

### **Is the Tenant entitled to recover the filing fee?**

As the Tenant was successful in their application, I grant the Tenant the \$100.00 filing fee paid for this application under section 72 of the Act.

The Tenant is entitled to a monetary award in the amount of \$1,626.12 as follows:

- \$1,526.12 for double the return of their security deposit plus interest
- \$100.00 for the cost of the filing fee.

### **Conclusion**

I grant the Tenant a Monetary Order in the amount of **\$628.08** under the following terms:

<b>Monetary Issue</b>	<b>Granted Amount</b>
Monetary Award for double the return of their security deposit plus interest.	<b>\$1,526.12</b>
To recover the filing fee for this application from the Landlord under section 72 of the Act.	<b>\$100.00</b>
Minus monetary award granted to the Landlord for compensation for loss under the Act.	<b>-\$898.04</b>
Minus authorization for the Landlord to recover the filing fee for this application from the Tenant under section 72 of the Act.	<b>-\$100.00</b>

<b>Total Amount</b>	<b>\$628.08</b>
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The Tenant is provided with this Order in the above terms and the Landlord must be served with **this Order** to be enforceable. Should the Landlord fail to comply with this Order, this Order may be filed and enforced in the Provincial Court of British Columbia (Small Claims 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: July 22, 2024

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Residential Tenancy Branch