



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Municipal Affairs

DECISION

Dispute Codes LL: MNRL-S, MNDL-S, MNDCL-S, LRSD, FFL
 TT: MNDCT, RPP

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “Act”).

The Landlord’s Application for Dispute Resolution was made on December 26, 2024, (the “Landlord’s Application”). The Landlord applied for the following relief, pursuant to the Act:

- a monetary order for money owed or compensation for damage or loss;
- a monetary order for unpaid rent or utilities;
- an order to retain the security and or pet deposit; and
- an order granting recovery of the filing fee.

The Tenant’s Application for Dispute Resolution was made on December 17, 2024 (the “Tenant’s’ Application”). The Tenant applied for the following relief, pursuant to the Act:

- a monetary order for damage or compensation;
- an order for the return of personal property.

The Tenant and the Landlord’s Agents attended the each of the three hearings at the appointed date and time and provided affirmed testimony.

At the start of the original hearing, the Landlord’s Agents confirmed receipt of the Tenant’s Proceeding Package, but they did not receive the Tenant’s evidence. The Tenant confirmed receipt of the Landlord’s Proceeding Package and evidence.

The Tenant amended their application to reduce their monetary claim. The Tenant stated that he served his evidence and amendment to the Landlord and the Landlord's Agent by email on February 26, 2025. The Landlord's Agents stated that they did not receive these documents. During the hearing, the Tenant re-sent the email containing the Tenant's amendment and evidence to the Landlord's Agent who confirmed receipt.

Preliminary Matters

Section 58(2)(C) of the *Act* confirms that a director must resolve a dispute unless the dispute is linked substantially to a matter that is before the Supreme Court.

At the start of the hearing, the parties confirmed that the Landlord has submitted an application to the Supreme Court seeking resolution on the same matters that are included in their Application before the Residential Tenancy Branch. Both parties confirmed that they attended Supreme Court and that the Judge notified the parties that the Landlord's claims were best to be determined by the Residential Tenancy Branch and that the matter was remitted back to the Residential Tenancy Branch.

I accept the parties were both in agreement relating to the above-mentioned facts, therefore, I find I do have jurisdiction to proceed with the Applications.

Issue(s) to be Decided

1. Is the Landlord entitled to a monetary order for unpaid rent or utilities, pursuant to Section 67 of the *Act*?
2. Is the Landlord entitled to a monetary order for money owed or compensation for damage or loss pursuant to Section 67 of the *Act*?
3. Is the Landlord entitled to an order granting recovery of the filing fee, pursuant to Section 72 of the *Act*?
4. Is the Landlord entitled to retain the Tenant's security deposit pursuant to Section 38 of the *Act*?
5. Is the Tenant entitled to a monetary order for damage or compensation, pursuant to Section 67 of the *Act*?
6. Is the Tenant entitled to an order for the return of their personal property, pursuant to Section 65 of the *Act*?

Background and Evidence

The parties testified that this tenancy began on August 1, 2018. By the end of the tenancy, the Tenant was required to pay rent in the amount of \$4,328.00. The Tenant paid a security deposit in the amount of \$2,164.00 which the Landlord continues to hold.

Landlord's Claim

The Landlord submitted a monetary order worksheet with claims amounting to \$32,722.74, which have been reproduced below;

The Landlord is claiming \$2,164.00 to repair damage to the rental unit by building an illegal kitchen and laundry room. The Landlord's Agent stated that they are only seeking to retain the Tenant's security deposit to compensate the Landlord for this claim to restore the unit to its original condition. The Landlord provided pictures in support.

The Tenant stated that the kitchen and laundry were already in the rental unit, but that he moved the washer and dryer into the garage. The Tenant stated that they returned the unit to its original condition when the Landlord requested it.

The Landlord is claiming \$150.00 for garbage disposal violation ticket received relating to the Tenant bringing out the garbage too early. The Landlord provided a copy of the bylaw ticket in support. The Tenant denied being responsible for the infraction.

The Landlord is claiming \$2,100.00 for fall yard maintenance and yard clean up. The Landlord stated that it was the Tenant's responsibility according to the tenancy agreement to maintain the yard. The Landlord stated that the Tenant failed to maintain the yard and left items around the yard that needed to be disposed of. The Landlord provided the invoice and proof of payment in support.

The Tenant stated that it would have been the Landlord's responsibility to maintain the yard following the end of the tenancy. The Tenant stated that they did maintain the yard during the tenancy.

The Landlord is claiming \$161.70 advertisement in the newspaper to fulfill their abandoned property protocol obligations. The Landlords claim that the Tenant abandoned the rental unit, therefore, they placed an advertisement in the local paper pursuant to the Regulations. The Landlord provided a copy of the invoice and the advertisement in support. The Tenant denied that the rental unit was abandoned.

The Landlord is claiming \$189.00 to change the locks of the rental unit. The Landlord stated that they were issued an Order of Possession dated October 28, 2024 based on the Tenant's non payment of rent. The Landlord determined the rental unit had been abandoned by the Tenant, therefore, changed the locks to the rental unit on November 4, 2024, as the Tenant had not returned the keys to the rental unit. The Landlord provided the invoice in support. The Tenant stated they were unable to return the keys as they were locked out of the rental unit.

The Landlord is claiming \$344.74 for pool maintenance. The Landlord stated that they received a bylaw warning regarding the pool at the rental property as it had not been maintained. The Landlord stated that it is the Tenant's responsibility to maintain the pool during the tenancy. The Landlord provided the Bylaw warning notice and the invoice for pool maintenance in support.

The Tenant stated that they were unable to maintain the pool given the equipment was broken. The Tenant referred to a previous Decision where it was confirmed the heating system was broken. The Landlord stated that the filtration system was working and that the heater not working does not impede the Tenant's ability to maintain the pool.

The Landlord is claiming \$940.80 for cleaning the rental unit. The Landlord stated that the Tenant abandoned the rental unit. Therefore, they itemized and stored all the Tenant's possessions and then had to clean the rental unit. The Landlord provided pictures of the rental unit and the invoice in support. The Tenant stated that they were unable to clean the unit as they were locked out.

The Landlord is claiming \$6,909.00 for property managements fees to compensate the Landlord's Agent the cost associated with responding to the Tenant's Applications and for filing their own applications at the RTB and Supreme Court. The Landlord provided the property management invoice and proof of payment in support. The Tenant stated that the Landlord has initiated the majority of the Court actions.

The Landlord is claiming \$6,147.50 to replace a broken pool heater. The Landlord stated that the Tenant misused the pool heater, which broke and required replacement. The Landlord provided a quote in support. The Tenant stated that the pool heater never worked throughout the tenancy and was very old. The Tenant denied ever using the pool heater.

The Landlord is claiming \$12,984.00 for loss of rent due to repairs and cleaning for three months. The Landlord stated that they could not re-rent the rental unit given some

of the Tenant's belonging were still in the rental unit and needed to be categorized and stored. The Landlord stated that the repairs and cleaning also took time. The Tenant stated that the Landlord locked him out, preventing him from gathering his possession and cleaning the rental unit.

The Landlord is claiming \$262.40 to reconnect the gas and electricity. The Landlord stated that the Tenant disconnected the gas and hydro services to the rental unit in August 2024. The Landlord stated that they had to pay a reconnection fee to have the services reconnected. The Landlord provided the reconnection bills in support. The Tenant stated that they disconnected their services at the end of October 2024

The Landlord is claiming \$369.60 for file delivery and notary fees. The Landlord stated that they employed these services to serve Supreme Court documents to the Tenant in person. The Tenant stated that they had documents to serve as well and noted that the Landlord could have used more cost-effective methods of service such as email.

Tenant's Claim

The Tenant is claiming for the return of their personal property, and for monetary compensation.

The Tenant stated that they requested permission from the Landlord in August 2024 to have a house sitter stay at the rental unit from September 2024 until May 2025 while the Tenant returns to school. The Tenant stated that they did not receive permission from the Landlord.

The parties agreed that the Tenant then failed to pay rent when due to the Landlord on for August, September, and October 2024 before the Landlord was successful in gaining an order of possession and monetary order for unpaid rent on October 28, 2024.

The Tenant stated that the Landlord proceeded to change the locks to the rental unit, preventing the Tenant from gathering their possessions. The Tenant stated that the Landlord was meant to employ bailiff services rather than enforcing their own order of possession. The Tenant is seeking the return of their possessions. The Tenant stated that they were renting another accommodation since August 2024 and provided a copy of the new tenancy agreement. The Tenant stated that they were still coming and going from the rental unit for work purposes and planned to maintain both units.

The Tenant is also seeking the following compensation and prepared a monetary order worksheet which was reproduced below;

The Tenant is seeking \$6,900.00 for a portion of the cost associated with furnishing their new rental unit as a result of the Landlord withholding the Tenant's furniture.

The Tenant is seeking \$800.00 for new clothes and \$100.00 for new clothes for the Tenant's son as the Landlord is holding their clothes.

The Tenant is seeking \$3,000.00 for damage to the Tenant's possessions.

The Tenant is seeking \$3,000.00 for being without their possessions.

The Tenant referred to being charged criminally because of his attendance to gather belongings from the garage that the Landlord stored the items in. The Tenant was seeking a determination as to if the Landlord followed the proper process following the issuance of the order of possessions and if they were entitled to store the Tenant's items.

The Landlord stated that no one resided in the rental unit since August 2024, which is demonstrated by the Tenant disconnecting the hydro and gas to the rental unit in August 2024 and stopped paying rent for August, September, and October 2024 totaling \$12,984.00.

The Landlord provided witness statement from neighbours confirming no one resided in the rental unit since August 2024. The Landlord stated that they Tenant removed the majority of their possessions from the rental unit and provided videos in support. The Landlord stated that the Tenant has been residing elsewhere since August 2024 which is demonstrated in the Tenant's social media. The Landlord provided screen shots and videos of the Tenant's social media account in support. The Landlord stated that they made several attempts at contacting the Tenant since August 2024, however, the Tenant was unresponsive.

The Landlord stated after they received the order of possession, they followed the abandoned property protocol. The Landlords stated that they took a detailed inventory of the Tenant's possessions, placed a news paper article on November 27, 2024 for two weeks and provided the article and invoice in support.

The Landlord stated that they would be happy to return the Tenant's possessions, but the Tenant must pay the monetary order for money owed to the Landlord for unpaid rent according to the Regulations.

The Landlord stated that the Tenant broke into the garage on December 4, 2024 and completed 11 trips to remove many of their possessions. The Landlord provided pictures and videos of the Tenant removing their items in support. The Landlord stated that they reported the break in to the local Police. The Tenant confirmed that the matter is currently going through the Court process.

Analysis

Based on all of the above, the evidence and testimony, and on a balance of probabilities, I find:

Section 67 of the *Act* empowers me to order one party to pay compensation to the other if damage or loss results from a party not complying with the *Act*, regulations or a tenancy agreement.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided for in sections 7 and 67 of the *Act*. An applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and
4. That the party making the application did what was reasonable to minimize the damage or loss.

In this case, the burden of proof is on the Applicant to prove the existence of the damage or loss, and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Respondent. Once that has been established, the Applicant must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Applicant did what was reasonable to minimize the damage or losses that were incurred.

The Landlord's Claim

The Landlord is claiming \$2,164.00 to repair damage to the rental unit by the Tenant after building an illegal kitchen and laundry room. I find that the Landlord has provided insufficient evidence to support the cost associated with repairing the damage, or that they suffered a loss as a result of the Tenant's modifications. As such, I dismiss this claim without leave to reapply.

The Landlord is claiming \$150.00 for garbage disposal ticket for violation relating to bringing out the garbage too early. I find that the Landlord has provided sufficient evidence to demonstrate that the Tenant breached the bylaw, which incurred a fine. As such, I award the Landlord **\$150.00**.

The Landlord is claiming \$2,100.00 for fall yard maintenance and yard clean up. I find that the Landlord provided insufficient evidence such as pictures or video of the condition of the yard to demonstrate that the yard required basic maintenance. While I find the Tenant is responsible for routine yard maintenance, which includes cutting grass, reasonable amount of weeding the flower beds, the Landlord is generally responsible for major projects, such as tree cutting and pruning, pursuant to Policy Guideline 1. I note that the Invoice provided by the Landlord refers to trimming and lawn care, and garden maintenance which may fall under the Landlord's responsibility to maintain. As such, I dismiss this claim without leave to reapply.

The Landlord is claiming \$161.70 advertisement in the newspaper to fulfill their abandoned property protocol obligations. The Landlords claim that the Tenant abandoned the rental unit, therefore, they placed an advertisement in the local paper pursuant to the Regulations. My Decision relating to abandoned property provided below in the "Tenant's claim". Based on my finding, I award the Landlord **\$161.70** for placing an advertisement in the local newspaper in accordance with the Regulations. I note the Regulations were recently amended, to exclude the need to placing an advertisement, however, at the time, I find this was a requirement.

The Landlord is claiming \$189.00 to change the locks of the rental unit. I find that the Landlord provided sufficient evidence to demonstrate that the Tenant failed to return the keys to the Landlord at the end of the tenancy. As such, I find that the Landlord is entitled to compensation in the amount of **\$189.00**.

The Landlord is claiming \$344.74 for pool maintenance. The Landlord stated that they received a bylaw warning regarding the pool at the rental property as it had not been

maintained. The Landlord stated that it is the Tenant's responsibility to maintain the pool during the tenancy. The Tenant stated that they were unable to maintain the pool given the equipment was broken.

I find that the Landlord provided a pool repair quote dated July 16, 2021 where the technician noted that the pool filter was leaking and was much too small for the pool size. The quote further notes that the pool will continue to have clarity and cleanliness issues until the proper sized filter is installed. I find that the Landlord provided insufficient evidence to demonstrate that they followed the recommendations by changing the filter size to accommodate the pool to ensure the pool water can be properly maintained. As such, I dismiss this claim without leave to reapply as the Landlord provided insufficient evidence to demonstrate they mitigated their losses.

The Landlord is claiming \$940.80 for cleaning the rental unit. The Landlord stated that the Tenant abandoned the rental unit and did not clean the unit. I find that the Landlord provided sufficient evidence to demonstrate that the rental unit required cleaning at the end of the tenancy, which would have been the Tenant's responsibility to complete. As such, I award the Landlord compensation in the amount of **\$940.80**

The Landlord is claiming \$6,909.00 for property managements fees to compensate the Landlord's Agent the cost associated with responding to the Tenant's Applications and for filing their own applications at the RTB and Supreme Court. I find that this is the cost of doing business as a Landlord. I find that the cost of employing an agent to conduct the Landlord's responsibilities is not recoverable. As such, I dismiss this claim without leave to reapply.

The Landlord is claiming \$6,147.50 to replace a broken pool heater. The Landlord stated that the Tenant misused the pool heater, which broke and required replacement. I find that the Landlord provided insufficient evidence to demonstrate that the Tenant caused the pool heater to break. Furthermore, the Landlord provided a quote from 2021 for the replacement of the heater in their evidence. I find that the Landlord has not provided evidence to demonstrate that they have yet replaced the heater and therefore have not yet suffered a loss. As such, I dismiss the claim without leave to reapply.

The Landlord is claiming \$12,984.00 for loss of rent due to repairs and cleaning for three months. The Landlord stated that they could not re-rent the rental unit given some of the Tenant's belonging were still in the rental unit and needed to be categorized and stored. I find that the Landlord provided insufficient evidence to demonstrate that it took

three months to clean the rental unit and to move the Tenant's belongings into the garage for storage. As such, I dismiss this claim without leave to reapply.

The Landlord is claiming \$262.40 to reconnect the gas and electricity. I find that the Landlord provided sufficient evidence to demonstrate that the Tenant disconnected the hydro and gas services at the rental unit without the Landlord's knowledge or consent. I find that the Landlord incurred charges as a result. As such, I find that the Landlord is entitled to compensation in the amount of **\$262.40**.

The Landlord is claiming \$369.60 for file delivery and notary fees. I find that this is the cost of doing business as a Landlord. I find that these costs are not recoverable by the Landlord and they could have mitigated their losses by using other means of service. As such, I dismiss this claim without leave to reapply.

As the Landlord was partially successful with their Application, I find that they are entitled to the recovery of the **\$100.00** filing fee.

The Tenants' Claim

The Tenant is claiming for the return of their personal property, and for monetary compensation. The Landlord stated that the Tenant abandoned the rental property, therefore they stored the Tenant's possessions in the garage of the rental unit.

Abandonment of personal property

30.3 (1)A landlord may consider that a tenant has abandoned personal property if (a)the tenant leaves the personal property on residential property that the tenant has vacated after the tenancy agreement has ended, or

(b)subject to subsection (2), the tenant leaves the personal property on residential property

(i)that, for a continuous period of one month, the tenant has not ordinarily occupied and for which the tenant has not paid rent, or

(ii)from which the tenant has removed substantially all of the tenant's personal property.

(2)The landlord is entitled to consider the circumstances described in subsection (1) (b) as abandonment only if

(a)the landlord receives an express oral or written notice of the tenant's intention not to return to the residential property, or

(b)the circumstances surrounding the giving up of the rental unit are such that the tenant could not reasonably be expected to return to the residential property.

(3) If personal property is abandoned as described in subsections (1) and (2), the landlord

(a) may remove the personal property from the residential property, and

(b) must deal with the personal property in accordance with this Part.

(4) Subsection (3) does not apply if a landlord and tenant have made an express agreement to the contrary respecting the storage of personal property.

(5) The tenant may provide express written notice to the landlord of specific and identifiable property that has personal value and, if the landlord has not removed that property as of the receipt of the notice, the landlord must deal with that property as personal value property in accordance with this Part.

[en. B.C. Reg. 50/2025, Sch. 2.]

I find that the Landlord provided sufficient evidence to demonstrate that the Tenant abandoned the rental unit. I find that the Landlord provided evidence, which was also confirmed by the Tenant, that the Tenant was occupying a different accommodation since August 1, 2024. The parties confirmed that the rent had not been paid by the Tenant since August 2024, before the Landlord obtained an order of possession on October 28, 2024. I do not accept that the Tenant attended the rental unit from time to time for work purposes.

I find based on the videos demonstrating the Tenant removed a substantial amount of possessions, combined with the neighbour's statements confirming the rental unit remained unoccupied since August 2024. I find this is further confirmed by the Landlord's evidence that the Tenant disconnected the utilities in August 2024 and did not respond to the Landlord regarding the status of the rental unit and the tenancy. I find the circumstances surrounding the giving up of the rental unit are such that the tenant could not reasonably be expected to return to the residential property.

Landlord's duty of care and obligations

30.4 When dealing with a tenant's abandoned personal property, the landlord must

(a) exercise reasonable care and caution required by the nature of the abandoned personal property and the circumstances to ensure that the property does not deteriorate and is not damaged, lost or stolen as a result of an inappropriate method of removal or an unsuitable place of storage,

(b) unless otherwise provided under this Part, store the abandoned personal property in a safe place and manner for a period of not less than 30 days,

(c) keep a written inventory of the abandoned personal property for a period of 2 years from the date of disposition of the abandoned personal property,

- (d) carry out any disposition of the abandoned personal property in accordance with this Part,
 - (e) keep particulars of the disposition of the abandoned personal property for a period of 2 years from the date of disposition of the abandoned personal property, and
 - (f) upon request, advise the tenant whether the abandoned personal property has been removed, stored or disposed of.
- [en. B.C. Reg. 50/2025, Sch. 2.]

After having found that the Tenant abandoned the rental property, I further find that the Landlord complied with Sec 30.4 and provided sufficient evidence to demonstrate that they safely handled the Tenant's possessions and stored them in the garage area which I find is a suitable place for storing the items, where they remain currently. I find that the Landlord took a detailed inventory of the Tenant's possessions.

Tenant's claim for abandoned personal property

30.5 (1) If a tenant claims the tenant's abandoned personal property at any time before it is disposed of under this Part, the landlord may, before returning the property, require the tenant to

- (a) reimburse the landlord for the landlord's reasonable costs of
 - (i) removing and storing the property, and
 - (ii) a search required to comply with section 30.6 *[notice of disposition]*, and
- (b) **satisfy any amounts payable by the tenant to the landlord under the Act or a tenancy agreement.**

(2) If a tenant makes a claim under subsection (1), but does not pay the landlord the amount owed, the landlord may dispose of the property as provided by this Part.

During the hearing, the Landlord stated that they agree to release the Tenant's possessions to the Tenant once the Tenant pays the balance of the monetary order dated October 28, 2024 to the Landlord for outstanding rent. I find that this complies with the requirements under 30.5(b).

As such, I find that the Landlord has not breached the Act, given the Tenant has abandoned the rental unit and the Landlord has abided by the Regulations relating to the handling of the Tenant's possessions. Should the Tenant wish to retrieve their possessions, they must first satisfy any amounts payable by the Tenant to the Landlord under the Act or tenancy agreement.

The Tenant is also seeking the following compensation and prepared a monetary order worksheet which was reproduced below;

The Tenant is seeking \$6,900.00 for a portion of the cost associated with furnishing their new rental unit as a result of the Landlord withholding the Tenant's furniture.

The Tenant is seeking \$800.00 for new clothes and \$100.00 for new clothes for the Tenant's son as the Landlord is holding their clothes.

The Tenant is seeking \$3,000.00 for damage to the Tenant's possessions.

The Tenant is seeking \$3,000.00 for being without their possessions.

After having found that the Landlord has not breached the Act, given the Tenant has abandoned the rental unit and the Landlord has abided by the Regulations relating the handling of the Tenant's possessions, I find that the Tenant is not entitled to compensation stemming from the losses associated with having their possessions stored in the Landlord's garage. I find that the Tenant could have mitigate their losses by removing their possessions prior to the Order of Possession taking effect.

As such, I dismiss the Tenant's Application without leave to reapply.

The Landlord has established a monetary award of \$1,803.90. The Landlord is still holding the Tenant's deposit in the amount of \$2,164.00. I find the Tenant's security deposit has accrued interest in the amount of \$112.46, bring the value of the Tenant's security deposit to \$2,276.46.

I find it appropriate in the circumstances to order that the Landlord retain \$1,803.90 from the \$2,276.46 security deposit held in satisfaction of the claim ($\$2,276.46 - \$1,803.90 = \$472.56$).

Pursuant to section 67 of the *Act*, I find the Tenant is entitled to a monetary order in the amount of \$472.56, which represents the remaining balance of their security deposit less the previously mentioned deductions.

Conclusion

The Landlord has established an entitlement to monetary compensation in the amount of \$1,803.90 which has been deducted from the security deposit and interest. The Tenant is granted a monetary order in the amount of \$472.56 which represents the remaining balance of the Tenant's security deposit. The order should be served to the Landlord as soon as possible and may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

Although this decision has been rendered more than 30 days after the conclusion of the proceedings contrary to section 77(1)(d) of the Act, I note that section 77(2) of the Act states that the director does not lose authority in a dispute resolution proceeding, nor is the validity of a decision affected, if a decision is given after the 30 day period in subsection (1)(d).

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: June 27, 2025

Residential Tenancy Branch