



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding EMV HOLDINGS CORP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC MNR FF

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on May 25, 2018, and amended on August 14, 2018 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for money owed or compensation for damage or loss;
- a monetary order for unpaid rent; and
- an order granting recovery of the filing fee.

The Landlord was represented at the hearing by K.N., legal counsel. Also in attendance for the Landlord was M.V., an agent, who provided affirmed testimony. The Tenant did not attend the hearing.

On behalf of the Landlord, K.N. confirmed the Application package was served on the Tenant in person on May 25, 2018. M.V. was present to witness service. In addition, K.N. confirmed the Amendment to an Application for Dispute Resolution, dated August 14, 2018 (the "Amendment"), was served on the Tenant in person on August 17, 2018. M.V. was present to witness service. Pursuant to section 71 of the *Act*, I find that these documents were sufficiently served for the purposes of the *Act*.

The Landlord's legal counsel and agent were provided with a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to a monetary order for money owed or compensation for damage or loss?
2. Is the Landlord entitled to a monetary order for unpaid rent?
3. Is the Landlord entitled to an order granting recovery of the filing fee?

Background and Evidence

The Landlord's monetary claim was summarized in a Monetary Order Worksheet, dated August 14, 2018, which was submitted with the Amendment. First, the Landlord claimed \$1,072.36 for bailiff costs incurred to enforce an order of possession issued by the Residential Tenancy Branch. The number of the related file has been included above for ease of reference. In support, the Landlord submitted a copy of the order of possession dated April 9, 2018, a copy of a writ of possession dated April 24, 2018, and a copy of the bailiff's invoice dated May 14, 2018.

Second, the Landlord claimed \$155.61 in pro-rated paid rent for the period from May 1-4, 2018 ($(\$1,206.00/31 \text{ days}) \times 4 \text{ days}$). M.V. confirmed the arbitrator issued a monetary order for unpaid rent due to April 30, 2018. However, the Tenant did not vacate the rental unit until the bailiff attended on May 4, 2018.

Third, the Landlord claimed \$80.00 for Supreme Court filing fees to obtain the Writ of Possession dated April 24, 2018. M.V. confirmed this amount was paid by the Landlord. A copy of the Writ of Possession and the payment receipt were submitted into evidence.

Fourth, the Landlord claimed \$61.00 for Provincial Court fees paid to obtain a garnishing order. Although the Landlord did not produce a receipt for this cost, a copy of fees as set out in Schedule A of the Small Claims Rules was submitted. K.N. specifically referred me to items #10 and #12. M.V. confirmed this amount was paid by the Landlord. In addition, the Landlord submitted a copy of the Garnishing Order (After Judgment) dated May 22, 2018.

Fifth, the Landlord claimed \$105.00 for cleaning costs incurred after the Tenant vacated the rental unit. This amount was calculated based on 4 hours at \$25.00 per hour, plus GST. M.V. testified that general cleaning was required throughout the rental unit.

The Landlord also sought to recover the \$100.00 filing fee paid to make the Application.

As noted above, the Tenant did not attend the hearing to dispute the Landlord's evidence.

Analysis

Based on the unchallenged oral testimony and documentary evidence, 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 Landlord 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 Tenant. Once that has been established, the Landlord must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Landlord did what was reasonable to minimize the damage or losses that were incurred.

I find the Landlord incurred the above costs, which flowed from the Tenant's breach of the *Act*. Specifically, the costs were incurred to enforce the order of possession and monetary order issued by the Residential Tenancy Branch on April 9, 2018.

Accordingly, pursuant to section 67 of the *Act*, I find the Landlord is entitled to a monetary order in the amount of \$1,573.97, which has been calculated as follows:

Claim	Amount allowed
Bailiff fees:	\$1,072.36
Unpaid rent:	\$155.61
Supreme Court fee:	\$80.00
Provincial Court fee:	\$61.00
Cleaning fee:	\$105.00
Residential Tenancy Branch filing fee:	\$100.00
TOTAL:	\$1,573.97

Conclusion

The Landlord is granted a monetary order in the amount of \$1,573.97. The order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: November 6, 2018

Residential Tenancy Branch