



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFL, MNRL, MNDL**

Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 72 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

This hearing is a continuation of a hearing which started on February 14, 2022, at which both parties were present. By Interim Decision of that day, the hearing was adjourned to this day.

The landlord attended this teleconference hearing and had opportunity to provide affirmed testimony, present evidence and make submissions. The hearing process was explained.

At the start of the hearing, I informed the landlord that recording of the hearing is prohibited under the Rules of Procedure. The landlord confirmed they were not recording the hearing.

The landlord confirmed the email address to which the Decision shall be sent.

The tenants are referenced in the singular.

Service Upon Tenant

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional 27 minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant was provided.

At the previous hearing, both parties provided their email addresses for service of the Notice of Hearing and Application for Dispute Resolution which was recorded on the first page of the Decision.

The landlord testified as follows. The landlord served the tenant with the Notice of Hearing and Application for Dispute Resolution by email sent on April 23, 2022, pursuant to the terms of the Interim Decision of February 14, 2022. The tenant subsequently posted copies of photographs to the door of the landlord's home.

Pursuant to the terms of the Interim Decision, the Act and the affirmed testimony of the landlord, I find that on April 23, 2022, the landlord served each tenant by email sent to the email addresses at which the tenant resided.

Preliminary Issue – Withdrawal of claim

This is the second hearing between the parties. The first hearing number is referenced on the first page. In the Arbitrator's Decision, they awarded the landlord a Monetary Order which dealt with the landlord's request to retain the security deposit.

As the issue of the security deposit has already been addressed, the landlord withdrew that claim in this application.

Issue(s) to be Decided

Is the landlord entitled to:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

Background

As the tenant did not attend the hearing, the landlord provided uncontradicted testimony. While I have turned my mind to all the documentary evidence and the testimony, not all details of the landlord's submissions and arguments are reproduced here. Only relevant, admissible evidence is considered. The principal aspects of the claim and my findings around each are set out below.

The landlord submitted a comprehensive evidence package supporting the landlord's claims in all aspects.

The landlord submitted a copy of the tenancy agreement and provided the following details about the background of the tenancy:

ITEM	DETAILS
Type of tenancy	Month-to-month
Date of beginning	October 1, 2017
Date tenant vacated	February 18, 2021 (estimated)
Monthly rent payable on 1 st	\$1,450.00

A condition inspection was conducted on moving in. The landlord did not submit the report as evidence. No condition inspection was conducted on moving out. The landlord was not informed of the tenant's moving out date and the tenant did not provide a

forwarding address.

Landlord's Claims

The landlord requested compensation for:

ITEM	AMOUNT
Rent for March 2021	\$1,450.00
Dump fees	\$36.00
Dump fees	\$116.50
Cleaning (40 hours \$25.00 hourly)	\$800.00
Repairs, painting, floor, and door replacements	\$600.00
TOTAL CLAIM	\$3,002.50

The landlord testified as follows with respect to the claims.

Rent

The landlord testified that the tenant owed rent for the month(s) of March 2021 in the amount of \$1,450.00 as the tenant left the unit dirty and in a state of disrepair requiring considerable cleaning and repair work. The landlord hired a person who repaired the unit after the tenant's vacated. The unit was not rentable until April 1, 2021.

The landlord requested compensation for lost revenue of one month's rent.

Cleaning Expenses

The landlord requested compensation for cleaning. The landlord stated the tenant left considerable debris when they moved out requiring two dump trips. They also left the unit in a filthy condition requiring considerable cleaning. In support of the testimony about the poor condition, the landlord submitted many photographs as well as a letter from the person who carried out the repairs.

Repairs

The landlord requested compensation for repairs to the unit necessary after the tenant moved out. The landlord submitted a cancelled cheque to the person who carried out the repairs along with a signed letter from the them confirming the state of the unit and the work necessary. The landlord submitted many photographs in support of the claim.

Filing Fee

The landlord requested reimbursement of the filing fee.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

When an applicant seeks compensation under the Act, they must prove on a balance of probabilities all four of the following criteria before compensation may be awarded:

1. Has the respondent party (the tenant) to the tenancy agreement failed to comply with the Act, regulations, or the tenancy agreement?
2. If yes, did the loss or damage result from the non-compliance?
3. Has the applicant (landlord) proven the amount or value of their damage or loss?
4. Has the applicant done whatever is reasonable to minimize the damage or loss?

The above-noted criteria are based on sections 7 and 67 of the Act, which state:

7 (1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

(2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

. . .

67 Without limiting the general authority in section 62 (3) [. . .] if damage or loss

results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

Each of the above four tests are considered in my findings.

I give substantial weight to the landlord's evidence as summarized above. Based on the uncontradicted credible evidence of the landlord, I find the landlord has met the burden of proof on a balance of probabilities with respect to all aspects of the claims.

Rent

I find the landlord has met the burden of proof on a balance of probabilities that the tenant vacated leaving it requiring cleaning and repairs.

Given the landlord's credible evidence, I find it reasonable that the unit could not be rented again until substantial cleaning and considerable repairs took place. I accept the landlord's evidence that the unit was not rentable for the month of March 2021 while the cleaning and repairs took place. I find the tenant caused the lack of cleanliness and disrepair. I find the landlord mitigated damages by having the work carried out in a timely manner. As a result of the tenant's actions, the landlord lost revenue in the amount claimed.

I therefore find the landlord is entitled to a monetary award in the amount requested for this aspect of the claim.

Cleaning and Repairs

I accept the landlord's evidence and I find the tenant did not leave the unit in a reasonably clean or good condition as required under section 32 and the tenancy agreement.

I find the tenant's breach of the Act caused the landlord to incur the expenses claimed for which the landlord fairly seeks compensation. I find the expenses for cleaning and repairs are reasonable given the photographs, the landlord's testimony, and the written letter with cancelled cheque from the repair person.

I accept the landlord's evidence that they made reasonable efforts to mitigate loss and

reduce expenses and carried out the work in a timely manner.

I find the landlord is entitled to reimbursement of the cleaning and repair expenses as claimed.

Filing Fee

As the landlord has been successful in this matter, I award reimbursement of the filing fee of \$100.00.

I grant a monetary award to the landlord summarized as follows:

ITEM	AMOUNT
Rent for March 2021	\$1,450.00
Dump fees	\$36.00
Dump fees	\$116.50
Cleaning (40 hours \$25.00 hourly)	\$800.00
Repairs, painting, floor, and door replacements	\$600.00
Reimbursement filing fee	\$100.00
TOTAL CLAIM	\$3,102.50

I grant the landlord a Monetary Order of **\$3,102.50**.

Conclusion

I grant the landlord a Monetary Order of **\$3,102.50** which must be served on the tenants. This Monetary Order may be filed and enforced in the courts of the Province of BC.

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: May 10, 2022

Residential Tenancy Branch