



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

A matter regarding BOSA BLUESKY PROPERTIES (MAIN)  
INC. and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes** MNRL-S, MNDL-S, MNDCL-S, FF

### **Introduction**

This hearing was convened as a result of the landlord's application for dispute resolution seeking remedy under the Residential Tenancy Act (Act). The landlord applied for a monetary order for unpaid rent, compensation for alleged damage to the rental unit by the tenant, compensation for a monetary loss or other money owed, authority to keep the tenants' security deposit to use against a monetary award, and recovery of the cost of the filing fee.

The landlord's agent (landlord) attended the telephone conference call hearing; the tenant did not attend. The landlord was affirmed.

The landlord testified that they served the tenant with their Application for Dispute Resolution, evidence, and Notice of Hearing (application package) by email on July 30, 2022. The landlord applied for and was granted authority to substitutionally serve the tenant by email in a Decision by an adjudicator on July 28, 2022.

Based upon the submissions of the landlord, I find the tenant was served notice of this hearing in a manner complying with the order for substituted service and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present her evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issue(s) to be Decided

Is the landlord entitled to an order for monetary compensation referred to above and to recovery of the filing fee paid for this application?

Background and Evidence

The evidence showed the tenancy started on April 1, 2019 and ended on April 20, 2022, when the tenant vacated, without notice, according to the landlord. The monthly rent at the end of the tenancy was \$1,618, as shown by the notice of rent increase filed by the landlord. The tenant paid a security deposit of \$797.50, according to the tenancy agreement and the landlord continues to hold the security deposit, having made this claim against it. Filed in evidence was the written tenancy agreement.

The landlord submitted that they received an order of possession of the rental unit and a monetary order for unpaid rent for January and February 2022.

The landlord's monetary claim is the following:

ITEM DESCRIPTION	CLAIMED
1. March and April rent and late fees	\$3,336.00
2. Storage fees	\$400.00
3. Water Usage fees	\$1,737.35
4. Junk Removal costs	\$272.50
5. Cleaning costs	\$183.75
6. Painting costs	\$500.00
<b>TOTAL</b>	<b>\$6,429.60</b>

The landlord's additional relevant evidence included, but was not limited to, the move-in and move-out condition inspection report, invoices for costs claimed and photographs showing the state of the rental unit after the tenant vacated.

As to the landlord's claim for unpaid rent, the landlord submitted that the tenant remained in the rental unit for March through April 20, 2022, and failed to pay rent for either month. Also, the landlord claims storage fees as the tenant rented 2 large storage lockers for \$50 per month each, as shown by the addendum filed in evidence, and left owing \$400.

The landlord testified that the tenant basically never paid for her water usage and owed the amount claimed at the end of the tenancy. Filed in evidence was the utility statement, showing the last month owed as well as the outstanding balance brought forward.

The landlord testified that the tenant failed to remove all of her belongings from the rental unit, including a bed, personal property, and garbage. The landlord referred to their photographs filed in evidence to support the claim and an invoice to support the amount of the claim.

The landlord submitted that it was necessary for the landlord to hire cleaners as the tenant failed to leave the rental unit clean. The cleaning company charges \$50 per hour and the time spent was 3 ½ hours. Filed in evidence was the cleaning invoice.

The landlord testified that the tenant left nail holes in practically every wall, that the walls were dirty and scuffed, and damaged. The damage and holes required the walls to be patched, repaired and repainted. Filed in evidence was the painting invoice.

The tenant did not attend the hearing and no evidence or submissions were provided by them.

### Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that results. Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss. Under section 67 of the Act, an arbitrator may determine the amount of the damage or loss resulting from that party not complying with the Act, the regulations or a tenancy agreement, and

order that party to pay compensation to the other party. The claiming party, the landlord here, has the burden of proof to substantiate their claim on a balance of probabilities.

Section 37 (2) of the Act states when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

As such, a tenant is required to remove all belongings including garbage and to clean the rental unit to a reasonable standard.

I find the landlord submitted sufficient documentary and photographic evidence that the tenant failed to properly and reasonably clean the rental unit, leaving many items of personal property, which required the landlord to remove, incurring costs. I also find it was necessary for the landlord to clean the rental unit to a reasonable standard after the tenant vacated, incurring costs. Having reviewed the photographic evidence and invoices, I find the costs claimed by the landlord to be reasonable. I therefore grant the landlord's monetary claim for **\$272.50** for junk removal and **\$183.75** for cleaning.

I find the landlord submitted sufficient and uncontested evidence to support that the tenant caused damage to the walls and that the damage was beyond reasonable wear and tear. I find the cost claimed to be reasonable and I therefore grant the landlord's monetary claim for **\$500** for painting.

As to the landlord's claim for unpaid rent, under section 26 of the Act, a tenant is required to pay rent in accordance with the terms of the tenancy agreement and is not permitted to withhold rent without the legal right to do so.

In the case before me, I accept the landlord's undisputed evidence that the tenant owed rent and failed to pay rent in accordance with the terms of the tenancy agreement, leaving a rent deficiency and late fees allowed under the tenancy agreement in the amount of \$3,336 for March and April 2022. I therefore grant the landlord's claim for **\$3,336**.

I find the landlord submitted sufficient evidence to show that the tenant rented 2 storage units at a cost of \$50 each, shown by the addendum, and that the tenant failed to pay all costs. I therefore find the landlord is entitled to a monetary award of **\$400**, as claimed.

As to the claim for water usage, I find that the tenant was responsible for their water costs under the tenancy agreement and failed to pay the full amount. I find the landlord submitted sufficient evidence of the costs owed by the tenant and as a result, I grant the landlord's monetary claim of **\$1,737.35**.

As a result, I therefore find the landlord has established a monetary claim of **\$6,429.60**, as noted above.

Due to their successful application, I grant the landlord recovery of their filing fee of **\$100**.

Using the offsetting provisions contained in section 72 of the Act, the landlord may withhold the tenant's security deposit in partial satisfaction of the monetary award. With interest to date, the tenant's security deposit is \$801.63.

### Conclusion

I issue a monetary order of **\$5,642.10** in favour of the landlord as follows:

ITEM	AMOUNT
1. Unpaid rent and late fees	\$3,336.00
2. Storage fees	\$400.00
3. Water Usage charge	\$1,737.35
4. Junk removal	\$272.50
5. Cleaning costs	\$183.75
6. Painting costs	\$500.00
7. Filing fee	\$100.00
8. <i>Less security deposit</i>	<i>(\$801.63)</i>
<b>TOTAL</b>	<b>\$5,727.97</b>

The landlord is provided with a Monetary Order in the above terms and the tenant must be served with this order as soon as possible to be enforceable. Should the tenant fail to comply with this order, this order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that 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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: April 06, 2023

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Residential Tenancy Branch