



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Decision

I grant the landlord a Monetary Order of **\$1,699.90**.

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

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*.
- An order requiring the tenant to reimburse the landlord for the filing fee pursuant to section 72.

The landlord attended and had opportunity to provide affirmed testimony, present evidence and make submissions. I explained the hearing process.

The landlord stated he was not recording the hearing.

The landlord provided his email address for the Decision.

1. Attendance of Tenant(s)

The tenants ("the tenant") did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional 18 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 tenant had the correct call-in number and participant code.

2. Service

As the tenant did not attend the hearing, I asked the landlord to confirm that the tenant was served with the Notice of Hearing and Application for Dispute Resolution for this hearing.

The landlord testified he filed the application within 15 days of the tenancy end date and day of provision of forwarding address by the tenant.

The landlord provided affirmed testimony that the landlord served the tenant with the Notice of Hearing and Application for Dispute Resolution by registered mail sent by them on August 01, 2022.

The landlord testified they sent the registered mail to the tenant's forwarding address as provided by the tenant in writing at the end of the tenancy.

The landlord provided the Canada Post Tracking Number in support of service and submitted copies of the receipts.

Section 90 of the Act says registered mail is received five days after mailing, August 25, 2022.

Section 15 of *Residential Tenancy Policy Guideline #12 - Service Provisions* explains the requirement for proof of service.

Where proof of service is required, the person who actually served the documents must either:

- be available as a witness in the hearing to prove service, or
- provide a signed statement with the details of how the documents were served.

In consideration of the landlord's testimony and credible supporting documents, I find that the landlord has established service on the tenant of the Notice of Hearing and Application for Dispute Resolution as testified in accordance with sections 88 and 89 of the Act..

Issue(s) to be Decided.

Is the landlord entitled to 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.

Background and Evidence

The landlord provided uncontradicted testimony as the tenant did not attend the hearing.

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

INFORMATION	DETAILS
Tenancy Agreement, Signed, Submitted	yes
Type of Tenancy	Fixed term
Beginning Date	January 1, 2022
Fixed Term End Date	December 31, 2022
Vacancy Date	July 18, 2022
Rent payable on first of month	\$1,200.00
Security deposit	\$600.00
Condition Inspection Report on Move-In signed by both and submitted	yes
Condition Inspection Report on Move-out signed by both and submitted	No.
Arrears of Rent	\$1,200.00
Date of Application	August 1, 2022

The tenancy agreement included a provision that the tenant shall pay \$10.00 to the landlord for each day the rent is late.

Condition Inspection Report

The parties conducted a condition inspection on moving in. The landlord testified that the unit was in good condition in all relevant aspects as it was almost new, and someone had lived in it for only two months. The landlord submitted as evidence a copy of the report signed by the parties.

The tenant vacated the unit on July 18, 2022. The parties attended a scheduled condition inspection on that day.

The tenant refused to sign the condition inspection or return it to the landlord. The landlord submitted a picture of each page of the condition inspection report on moving out as supporting evidence of his claim for compensation for damages to the unit.

Overview of Landlord's Claim

The landlord requested reimbursement of the following expenses:

ITEM	AMOUNT
Outstanding rent July 2022	\$1,200.00
Late payment	\$180.00
Cleaning fees – supporting bank transfer	\$150.00
Furniture removal and disposal - estimate	\$197.40
Repairs light and security system – receipt submitted	\$472.50
Filing fee	\$100.00
TOTAL	\$2,299.90

Rent

The landlord testified the tenant moved out July 18, 2022, and did not pay rent for the month of July 2022 in the amount of \$1,200.00.

The landlord requested compensation in this amount as well as \$10.00 daily late payment fee for 18 days.

Damage to Unit

The landlord testified the unit was like new when the tenant moved in. The landlord submitted documentary evidence, the condition inspection report on moving in, to support this assertion.

After the tenant moved out, the landlord saw the unit needed cleaning and had been damaged.

The landlord submitted a comprehensive evidence package which included a copy of the condition inspection report on moving in (signed), the condition inspection report on moving out (unsigned, pictures of each completed page), and copies of receipts, estimates and an e-transfer.

Documentary evidence supported each of the landlord's claims.

Security deposit

The landlord requested to apply the security deposit to the award as follows:

ITEM	AMOUNT
Requested compensation (above)	\$2,299.90
(Less security deposit)	(\$600.00)
TOTAL MONETARY ORDER REQUESTED	\$1,699.90

Analysis

I have considered all the submissions and evidence presented to me, including those provided in writing and orally. I will only refer to certain aspects of the submissions and evidence in my findings.

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the *Act*, regulations, or a tenancy agreement.

Section 7(1) of the *Act* provided that if a landlord or tenant does not comply with the *Act*, regulation or tenancy agreement, the non-complying party must compensate the other for damage or loss that results.

To claim for damage or loss, the claiming party bears the burden of proof on a balance of probabilities; that is, something is more likely than not to be true. The claimant must establish four elements.

1. The claimant must prove the existence of the damage or loss.
2. Secondly, the claiming party must claim that the damage or loss stemmed directly from a violation of the agreement or a contravention on the part of the other party.
3. Once those elements have been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.
4. Finally, the claimant has a duty to take reasonable steps to reduce, or mitigate, their loss.

If the landlord does not establish each of these four elements, the claim fails.

In this case, the landlord has the onus to prove entitlement to an award.

The landlord provided credible testimony supported in all material aspects by well-organized and comprehensive document package including receipts and a quote for each claimed expense.

I have considered all the evidence submitted by the landlord. As stated earlier, this evidence included receipts, an estimate or a copy of a bank transfer for each item claimed. The landlord submitted photographs taken when the tenant moved out.

The landlord's evidence was well prepared, assembled and presented.

I accept the landlord's uncontradicted testimony and documentary evidence in its entirety and I find as follows.

Rent and Late Fees

I accept the landlord's testimony that the tenant vacated the unit without paying rent for the month of July 2022.

The agreement contained a provision the tenant would pay the landlord \$10.00 for each day the rent was late. The landlord requested compensation of \$10.00 for each of the 18 days before the tenant moved out in the final month.

I find the landlord has met the burden of proof with respect to the amount claimed in outstanding rent and late fees. I grant the landlord an award for these claims as requested.

Cleaning, Damages, Repairs

Considering the evidence and testimony, I find as follows.

The landlord has met the burden of proof for an award as requested under this hearing. The unit needed cleaning when the tenant vacated, the tenant is responsible for the lack of cleanliness, the landlord incurred the amount claimed in cleaning expenses, and the landlord took all reasonable steps to mitigate expenses. I grant the landlord a monetary award in the amount requested for this aspect of the claim.

As well, in considering all the above-mentioned evidence and testimony, I find the landlord has met the burden of proof on a balance of probabilities for compensation for repairs and damage. The unit needed repairs when the tenant moved out as specified by the landlord, the tenant is responsible for the damage, the landlord incurred or will incur the amount claimed in repairs, and the landlord

took all reasonable steps to mitigate expenses. The damage is more than 'reasonable wear and tear.'

Summary

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

I grant the landlord a monetary award in the amount requested as follows:

ITEM	AMOUNT
Outstanding rent July 2022	\$1,200.00
Late payment	\$180.00
Cleaning fees – supporting bank transfer	\$150.00
Furniture removal and disposal - estimate	\$197.40
Repairs light and security system – receipt submitted	\$472.50
Filing fee	\$100.00
TOTAL AWARD	\$2,299.90

Security Deposit

I authorize the landlord to apply the security deposit to the award. The summary of the award is:

ITEM	AMOUNT
Requested compensation (above)	\$2,299.90
(Less security deposit)	(\$600.00)
TOTAL MONETARY ORDER	\$1,699.90

I grant a monetary award to the landlord in the amount of **\$1,699.90**.

Conclusion

The landlord is entitled to a Monetary Order in the amount of **\$1,699.90**.

This Monetary Order must be served on the tenants. The 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: April 25, 2023

Residential Tenancy Branch