



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **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.

Both parties attended and had the opportunity to make submissions as well as present affirmed testimony and written evidence. The hearing process was explained, and an opportunity was given to ask questions about the hearing process.

The parties provided their email address for delivery of the Decision.

Settlement Discussions

I explained the hearing and settlement processes, and the potential outcomes and consequences, to both parties. Both parties had an opportunity to ask questions, which I answered. Neither party made any adjournment or accommodation requests. I informed both parties that I could not provide legal advice to them. I informed them I make my Decision after the hearing and not during the hearing.

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties do so during the dispute resolution proceedings, the settlement may be recorded in the form of a Decision or an Order.

The Arbitrator assisted the parties in efforts to settle the matter. Settlement discussions were unsuccessful, and the hearing continued.

Issue(s) to be Decided

Is the landlord entitled to the relief requested?

Background and Evidence

The landlord requested a Monetary Order for compensation for damages for which the tenant is responsible.

Background

The parties agreed the tenant rented a unit from the landlord which was new on moving in. They agreed on the background of the tenancy:

INFORMATION	DETAILS
Tenancy Agreement, Signed, Submitted	yes
Type of Tenancy	Month-to-month
Beginning Date	Dec 15, 2017
Vacancy Date	Jun 30, 2022
Rent payable on first of month	\$1,300.00
Security deposit	\$600.00 (Tenant authorized landlord to retain)

At the end of the tenancy, the parties agreed the tenant paid the landlord \$50.00 for reimbursement of keys. The landlord withdrew their claim for compensation for the keys.

The parties agreed the tenant had paid the landlord \$200.00 to apply to outstanding gas bills. The landlord agreed the amount claimed was therefore reduced to \$1,024.47.

Landlord's Claims

The landlord agreed the following table accurately states their claim:

	ITEM	AMOUNT
1.	Gas bill outstanding	\$1,024.47
2.	Cleaner on move out	\$200.00
3.	Disposal Invoice of tenant's items on move out	\$406.14
4.	Filing fee	\$100.00
	TOTAL CLAIM	\$1,730.61

The parties agreed the landlord could retain the security deposit of \$600.00 to apply to any amount owing. The landlord's final claim is therefore:

ITEM	AMOUNT
Landlord's claim (above)	\$1,730.61
(Less Security deposit)	(\$600.00)
	\$1,130.61

The landlord submitted copies of invoices in support of each item for which compensation was claimed.

The tenant agreed to compensate the landlord for the cost of the cleaning and disputed the landlord's entitlement to each of the remaining claims as being more than they should have been.

Condition inspection reports

The landlord submitted a condition inspection report on moving in and moving out. The report indicated cleaning required and remaining possessions to be removed when the tenant moved out. The tenant agreed not to be present during the move out inspection.

Landlord's Claims

1. Gas bill outstanding \$1,024.47

The landlord submitted a copy of an invoice for an outstanding gas bill for the unit which provided the annual fees for the unit. Less the amount of \$200.00 paid by the tenant, the landlord claimed the outstanding amount owed by the tenant is \$1,024.47 for which the landlord requested compensation.

The tenant stated the outstanding amount is twice the amount it should be based on use and cost in previous years. The tenant submitted no supporting documentary evidence.

2. *Cleaner on move out* \$200.00

The tenant agreed they are responsible for this amount.

3. *Disposal Invoice of tenant's items on move out* \$406.14

The landlord stated the tenant moved out on a long weekend, leaving items, and requiring the landlord to incur costs of disposal. The condition inspection report stated items were left behind by the tenant. The landlord submitted a supporting receipt.

The tenant acknowledged they left items in the unit. However, the amount charged for which the landlord seeks compensation was unreasonable.

4. *Filing fee* \$100.00

The landlord requested reimbursement of the filing fee.

Analysis

Only relevant, admissible evidence is considered. Only key facts and findings are referenced.

Standard of Proof

Rule 6.6 of the *Residential Tenancy Branch Rules of Procedure* state that 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.

Here, it is up to the landlord to establish his claims on a balance of probabilities, that is, that the claims are more likely than not to be true.

Statutory Provisions

When an applicant, the landlord in this case, seeks compensation under section 7 or 67 of the Act, they must prove on a balance of probabilities the following :

1. The tenant failed to comply with the Act, regulations, or the tenancy agreement;
2. The loss or damage resulted from the non-compliance;
3. The amount or value of their damage or loss; and
4. They have done whatever is reasonable to minimize the damage or loss.

Failure to prove one of the first three points above means the claim fails. If the landlord has failed to minimize the damage or loss, the amount of damages compensable would be reduced.

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) [director's authority respecting dispute resolution proceedings], 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.

Credibility

The landlord submitted a comprehensive evidence package which supported all their claims. They provided credible testimony explaining all aspects of the expenses for which they claimed compensation.

While the tenant disagreed with the amount of two of the landlord's claims (gas bill and disposal), I find the landlord provided believable well-supported evidence. Where their evidence conflicts, I prefer the landlord's evidence.

Findings

With respect to the landlord's claims for compensation, I find the landlord has met the burden of proof they incurred the expenses for which the tenant is responsible, the landlord took practical steps to mitigate the costs, and the expenses are realistic.

I award damages as claimed:

	ITEM	AMOUNT
1.	Gas bill outstanding	\$1,024.47
2.	Cleaner on move out	\$200.00
3.	Disposal Invoice of tenant's items on move out	\$406.14
4.	Filing fee	\$100.00
	TOTAL AWARD	\$1,730.61

As the tenant agreed the landlord may retain the security deposit, I award the landlord the following:

ITEM	AMOUNT
Landlord's claim (above)	\$1,730.61
(Less Security deposit)	(\$600.00)
MONETARY ORDER TO LANDLORD	\$1,130.61

I grant the landlord a Monetary Order of \$1,130.61.

Conclusion

I grant the landlord a Monetary Order of \$1,130.61. This Order must be served on the tenant. The landlord may file and enforce this Order 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 11, 2023

Residential Tenancy Branch