



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## Decision

Dispute Codes: MNR, MNSD, FF

## Introduction

This matter dealt with an application by the Landlords for a Monetary Order for unpaid rent, for compensation for damage to the rental unit and for damage or loss under the Act or tenancy agreement as well as to recover the filing fee for this proceeding. The Landlords also applied to keep all or part of a security deposit.

The Landlords said they discovered the Tenant's forwarding address from a cell phone bill and served him with a copy of the application and notice of hearing in this matter by registered mail on January 22, 2009. According to the Canada Post online tracking system, a notification card was left for the Tenant, however, he did not pick up the hearing package. I find, pursuant to s. 89 of the Act that the Tenant was properly served with notice of the hearing and the hearing proceeded in his absence.

## Issue(s) to be Decided

1. Are there arrears of rent and if so, how much?
2. Are the Landlords entitled to compensation for damages and if so, how much?
3. Are the Landlords entitled to keep all or part of the Tenant's security deposit?

## Background and Evidence

This fixed term tenancy started on February 1, 2007 and was to expire on February 1, 2009, however it ended on August 21, 2008 when the Tenant moved out. Rent was \$2,000.00 per month. The Tenant paid a security deposit of \$1,000.00 on January 14, 2007.

The Landlords claim the Tenant gave them a cheque for August, 2008 rent, however, it was returned for non-sufficient funds. The Landlords said when they contacted the Tenant about the returned cheque, the Tenant advised them he was moving out. The Landlords said the Tenant did not give them written notice he was moving out. The Landlords also claim they advertised the rental unit for rent effective September 1, 2008 at the same rate of rent in two on-line publications. The rental unit was re-rented for October, 2008. Consequently, the Landlords said they suffered a loss of rental income

for September, 2008. The Landlords said they also noticed some damage to two interior doors and the carpet after the Tenant moved out.

### Analysis

I find on a balance of probabilities that rent for August, 2008 remains unpaid and that the Landlords are entitled to recover the amount of \$2,000.00.

Section 45 of the Act says that a Tenant may not end a fixed term tenancy earlier than the day indicated in the tenancy agreement as the last day of the tenancy. If a Tenant ends a tenancy earlier, he may be liable for any loss of income the Landlords suffer as a result. A Landlord also has a responsibility under s. 7(2) of the Act to take whatever steps are reasonable to minimize their losses. I find that the Landlords made reasonable attempts to re-rent the rental unit as soon as the Tenant advised them he was ending the tenancy. As a result, I find that the Landlords are also entitled to recover compensation for a loss of rental income for September, 2008 in the amount of \$2,000.00. As the Landlords have been successful in this matter, they are also entitled to recover their \$50.00 filing fee for this proceeding.

The Landlords' application for compensation for damages to the rental unit is dismissed with leave to reapply. Pursuant to s. 38(4), 62(3) and 72 of the Act, I order the Landlord to keep the Tenant's security deposit plus accrued interest in partial payment of the rent arrears. The Landlords will receive a monetary order for the balance owing as follows:

|                         |                  |
|-------------------------|------------------|
| August 2008 rent:       | \$2,000.00       |
| Loss of rental income:  | \$2,000.00       |
| Filing fee:             | <u>\$50.00</u>   |
| Subtotal:               | \$4,050.00       |
| Less: Security Deposit: | (\$1,000.00)     |
| Accrued Interest:       | <u>(\$29.68)</u> |
| BALANCE OWING:          | \$3,020.32       |

### Conclusion

A Monetary Order in the amount of **\$3,020.32** has been issued to the Landlords and a copy of it must be served on the Tenant. If the amount is not paid by the Tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia and enforced as an order of that court. The Landlords' application for compensation for damages to the rental unit is dismissed with leave to reapply.