



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** MNR, MND, MNSD and FF

### **Introduction**

This application was brought by the landlords on March 28, 2011, amended on April 1, 2011, seeking a Monetary Order unpaid rent/loss of rent, damage to the rental unit, and recovery of the filing fee for this proceeding. The landlords also sought authorization to retain the security deposit in set off against the balance owed.

Despite having been served with the Notice of Hearing and evidence sent by registered mail to the forwarding address provided in writing to the landlords, the tenants did not call in to the number provided to enable their participation in the telephone conference call hearing. Therefore, it proceeded in their absence.

### **Issues to be Decided**

This matter requires a decision on whether the landlords are entitled to monetary compensation for the damage and losses claimed.

### **Background and Evidence**

This tenancy began on December 1, 2010 under a fixed term rental agreement set to end on May 31, 2011. Rent is \$1,200 per month and the landlords hold a security deposit of \$600 paid on December 1, 2010.

During the hearing, the landlord submitted into evidence a copy of the tenants' written notice to end the tenancy on April 1, 2011, two months earlier than the end date stated on the fixed term agreement. The tenants' notice was dated February 28, 2011, but the landlord stated it had not been delivered until March 26, 2011. Therefore, the landlord claims unpaid rent for each of April and May.

The landlord also makes claim for repairs to the rental unit for damage caused, apparently during the move out, and for the cost of carpet cleaning. However, the landlord stated that the work was just finishing and not all receipts were in yet. Also, he stated that he had postponed the carpet cleaning until the repairs were complete. Therefore, the landlord requested and I grant leave to reapply on the damages and carpet cleaning.

## **Analysis**

Section 45(2)(b) of the *Act* provides that tenants may give notice to end a fixed term tenancy on a date that, "is not earlier than the date specified in the tenancy agreement as the end of the tenancy."

I accept the evidence of the landlords that they have been advertising the rental unit on three on-line services since receiving the notice and thereby are meeting their obligation under section 7 of the *Act* to do whatever is reasonable to minimize their losses

Therefore, I find that the tenants responsible for the landlords' loss of rent for the period to the end of the tenancy.

However, as the hearing is taking place on April 21, 2011, I cannot be certain that the rental unit will remain vacant for May 2011.

Therefore, I find that the tenants must compensate the landlord for the rent for April 2011 and I grant the landlords leave to reapply for any further loss of rent as may be ascertained by May 31, 2011.

As the hearing was scheduled very shortly after the application was made, as noted, I have also granted the landlords leave to reapply on the claims in damages when the work and cleaning have been completed.

As the application has succeeded on its merits, I find that the landlords are entitled to recover the filing fee for this proceeding from the tenants.

I further authorize and order that the landlords may retain the tenants' security deposit in set off against the balance owed to them.

Thus, I find that the tenants owe to the landlords an amount calculated as follows:

Rent/loss of rent for April 2011	\$1,200.00
Filing fee	50.00
Sub total	\$1,250.00
Less retained security deposit (No interest due)	- 600.00
<b>TOTAL remaining owed by tenants to landlords</b>	<b>\$650.00</b>

## Conclusion

In addition to authorization to retain the security deposit in set off, the landlords' copy of this decision is accompanied by a Monetary Order for **\$650.00** enforceable through the Provincial Court of British Columbia, for service on the tenants.

The landlords are granted leave to apply for unpaid rent/loss of rent for May 2011 in the event they are unsuccessful in seeking new tenants

The landlords are further granted leave to reapply for compensation for damages once repairs and cleaning have been completed and documented.

April 21, 2011