



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNSD, MNDC, FF

### Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent or utilities, for compensation for loss or damage under the Act, to retain the Tenant's security deposit and to recover the filing fee for this proceeding.

The Landlord said he served one of the Tenants with the Application and Notice of Hearing (the "hearing package") by personal delivery mail on June 7, 2011. The Landlord said the other Tenant had left the rental unit prior to the end of the tenancy and his location was unknown. Based on the evidence of the Landlords', I find that the remaining Tenant was served with the Landlords' hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

### Issues(s) to be Decided

1. Are there rent or utility arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent or utilities and if so how much?
3. Is there damage or loss and if so how much?
4. Is the Landlord entitled to compensation for damage or loss and if so how much?
5. Is the Landlord entitled to keep the Tenant's security deposit?

### Background and Evidence

This tenancy started on November 7, 2010 as a fixed term tenancy with an expiry date of November 30, 2011. Rent was \$985.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$500.00 on November 1, 2010. The Landlord said the Tenant moved out of the rental unit on about May 20, 2011.

The Landlord said that the Tenant did not pay \$956.07 of utilities dating from January, 2011 to May 24, 2011. As well the Landlord said the Tenants left the rental unit in an unclean state and the Landlord is claiming compensation for carpet cleaning of \$77.28. The Landlord said they are applying for the unpaid utilities and carpet cleaning cost totalling an amount of \$1,033.35. The Landlord as well applied to retain the Tenant's security deposit to cover a portion of the unpaid utilities and cleaning costs.

The Landlord said they gave the Tenants a 10 day Notice to End the Tenancy on April 5, 2011 for unpaid utilities in the amount of \$513.94. After the Tenants moved out additional utility bills totally \$442.13 came in for the time the Tenants were in the rental unit.

### Analysis

Section 26 of the Act says a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Section 46 (b) of the Act says if utility charges are unpaid for more than 30 days after the tenant is given a written demand for payment of them the landlord may treat the unpaid utilities as unpaid rent.

The Tenant does not have the right under the Act to with hold payment for unpaid rent or utilities and the Landlord has given the Tenant written demand for payment of the unpaid utilities by way of this application and the 10 Day Notice to end Tenancy dated April 5, 2011. I find for the Landlord and award the Landlord compensation for unpaid utilities in the amount of \$956.07.

With respect to the Landlord's claim for carpet cleaning of \$77.28 the Landlord did not submit any corroborating evidence by way of receipts or invoices to support the claim. Consequently as there is no evidence to corroborate the claim I dismiss with leave to reapply the Landlord's claim for carpet cleaning in the amount of \$77.28.

As the Landlords have been partially successful in this matter, they are also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. I order the Landlords pursuant to s. 38(4) and s. 72 of the Act to keep the Tenant's security deposit in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as following:

	Rent arrears:	\$ 956.07
	Recover filing fee	\$ 50.00
	Subtotal:	\$1,006.07
Less:	Security Deposit	\$ 500.00
	Subtotal:	\$ 500.00
	Balance Owing	\$ 506.07

Conclusion

A Monetary Order in the amount of \$506.07 has been issued to the Landlords. A copy of the Orders must be served on the Tenant: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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*.

---

Residential Tenancy Branch