



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** MNDC, MNSD; FF

### **Introduction**

This is the Landlord's application for compensation for damage or loss under the Act, regulation or tenancy agreement; to apply the security deposit in partial satisfaction of her monetary claim; and to recover the cost of the filing fee from the Tenants.

The parties gave affirmed testimony at the Hearing.

### **Issues to be Decided**

- Is the Landlord entitled to a monetary award for loss of revenue for March, 2012, prorated hydro costs for March, 2012, and for the cost of replacing broken window screen clips?

### **Background and Evidence**

A copy of the tenancy agreement was provided in evidence. This tenancy began on March 1, 2010, and ended on February 29, 2012. Monthly rent was \$1,250.00, due on the first day of the month. Monthly rent does not include utilities. A security deposit in the amount of \$625.00 was paid at the beginning of the tenancy.

The Landlord testified that the Tenants phoned her on January 28, 2012, to advise that they would be ending the tenancy effective February 29, 2012. The Landlord stated that the Tenants did not provide written notice that they were ending the tenancy. The Landlord testified that the Tenants also advised her on January 29, 2012, that there was mould in the rental unit. The Landlord stated that the mould grew as a result of the Tenants using a humidifier rather than a heater in the rental unit. The Landlord stated that the mould growth required extensive remediation which the Tenants have subsequently paid for. However, as a result of the unsightly mould and the required remediation, the Landlord stated that the rental unit was not ready to be shown to prospective renters until after February 17, 2012.

The Landlord testified that at the end of February, she was able to re-rent the rental suite effective April 1, 2012, for \$1,350.00 per month. The Landlord seeks loss of revenue for the month of March in the amount of \$1,350.00 and the cost of hydro from February 10, 2012 to February 29, 2012 (prorated) in the amount of \$57.14. The Landlord provided a copy of the hydro bill in evidence.

The Landlord also seeks to recover the cost of replacing broken window screen clips in the amount of \$3.66.

The Tenants agreed that they owe the Landlord \$3.66 for the window screen clips and \$57.14 for hydro, but disagreed with the Landlord's claim for loss of revenue. The Tenants stated that the rental unit was ready to be shown on February 17, 2012, and that the Landlord was too quick on deciding on a new tenant for April 1, 2012. The Tenants submitted that the Landlord might have found a new tenant to move in prior to April 1, 2012, if she had made more effort.

### **Analysis**

The Tenants agreed with the Landlord's claim for the broken window screen clips and the prorated portion of the hydro bill for February 20 to 29, 2012. Therefore, this portion of the Landlord's application is allowed.

Section 67 of the Act states:

#### **Director's orders: compensation for 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.

Section 44 of the Act provides the only ways a tenancy may end. Section 45 of the Act provides the ways a tenant may end a tenancy.

Section 45 of the Act states that a tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice, and is the day before the day in the month that rent is payable. Section 45(4) of the Act requires this notice to comply with the provisions of Section 52 of the Act.

Section 52 of the Act states:

#### **Form and content of notice to end tenancy**

**52** In order to be effective, a notice to end a tenancy must be in writing and must

(a) be signed and dated by the landlord or tenant giving the notice,

- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

In this case, I find that the Tenants did not provide the Landlord with written notice to end the tenancy and therefore did not comply with Section 52 of the Act.

I further find that the Tenants caused damage to the rental unit which required remediation and that the remediation was not completed until February 17, 2012. Based on the photographs provided in evidence, I accept the Landlord's position that the rental unit was mouldy for some time but the Tenants did not advise the Landlord until January 29, 2012. I find that this damage rendered the rental unit unavailable for showing to potential renters until it was remediated. I find that the Landlord acted reasonably and quickly to find a new tenant. I do not accept the Tenants' submission that she acted too quickly. Normally, tenancies begin on the first of a month and prospective tenants have to give their full one month's notice to end a tenancy before they can commit to starting a new tenancy. If the Landlord had waited longer, I find it likely that the rental unit would not have been rented until a date effective after April 1, 2012.

I find that the Landlord has established her claim for loss of revenue in the amount of \$1,250.00, which is the amount of rent the Tenants were paying. The Landlord stated that if I were to allow only \$1,250.00 instead of the \$1,350.00 she was claiming, then she would be asking to recover the total amount of the hydro bill rather than a prorated amount to February 29, 2012. I decline to award the Landlord the total amount of the hydro bill as she had not claimed that amount on her Application for Dispute Resolution or in her documentary evidence that was provided to the Tenants.

Pursuant to the provisions of Section 72(2)(b) of the Act, the Landlord may apply the security deposit towards partial satisfaction of the Landlord's monetary claim. No interest has accrued on the security deposit.

The Landlord has been successful in her application and I find that she is entitled to recover the cost of the \$50.00 filing fee from the Tenants.

I hereby provide the Landlord a Monetary Order, calculated as follows:

Loss of revenue for March, 2012	\$1,250.00
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Cost of window screen clips	\$3.66
Prorated hydro from February 20 to 29, 2012	\$57.14
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$1,360.80
Less security deposit	<u>- \$625.00</u>
<b>TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF</b>	<b>\$735.80</b>

### **Conclusion**

I hereby provide the Landlord a Monetary Order in the amount of **\$735.80** for service upon the Tenants. This Order may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an Order of that Court.

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: May 09, 2012.

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Residential Tenancy Branch