



# Dispute Resolution Services

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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, for compensation for damage or loss under the Act, regulations or tenancy agreement, to retain the Tenant's security deposit and to recover the filing fee for this proceeding.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on April 12, 2012. Based on the evidence of the Landlords, I find that the 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 arrears and if so, how much?
2. Are the Landlords entitled to compensation for unpaid rent and if so how much?
3. Is there damage or loss and if so how much?
4. Are the Landlords 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 August 13, 2011 as a fixed term tenancy with an expiry date of August 12, 2012. Rent was \$800.00 per month payable on the 13<sup>th</sup> day of each month. The Tenant paid a security deposit of \$400.00 on August 13, 2012. The Landlord said the Tenant moved out of the rental unit sometime in early March, 2012 without notice to the Landlords.

The Landlord said she served the Tenant with a one month Notice to End Tenancy dated February 23, 2012 as a result of complaints and unpaid fines from the strata board. The effective vacancy date on the Notice to End Tenancy was March 31, 2012.

The Landlord said that the Tenant did not pay \$800.00 of rent for March, 2012. As well the Landlord said the Tenant left the rental unit with unpaid strata fines of \$300.00. The Landlord continued to say they have not paid the strata fines as of yet, but the fines

have to be paid or the Strata will attach the fines to the title of the property. The Landlord said they are applying for the March, 2012 rent of \$800.00, the strata fines of \$300.00 and to retain the Tenant's security deposit as partial payment of those unpaid amounts.

The Landlord said they are requesting to recover the cost of the filing fee of \$50.00 from the Tenant as well.

### Analysis

Section 26 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.

The Tenant did not give the Landlords proper notice to end the tenancy and the Tenant does not have the right under the Act to withhold part or all of the rent; therefore I find the Tenant is responsible for the rent of \$800.00 for the month of March, 2012.

For a monetary claim for damage of loss to be successful an applicant must prove a loss actually exists, prove the loss happened solely because of the actions of the respondent in violation to the Act, the applicant must verify the loss with receipts and the applicant must show how they mitigated or minimized the loss.

The Landlords have not paid the Strata fines of \$300.00 therefore a loss has not been proven to exist at this time. Consequently I dismiss the Landlord's claim for the Strata fines of \$300.00 with leave to reapply.

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:	\$ 800.00
	Recover filing fee	\$ 50.00
	Subtotal:	\$ 850.00
Less:	Security Deposit	\$ 400.00
	Subtotal:	\$ 450.00
	Balance Owing	\$ 450.00

Conclusion

A Monetary Order in the amount of \$450.00 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*.

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Residential Tenancy Branch