



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNR, MND, MNDC, MNSD, FF

### Introduction

This hearing concerns the landlords' application for a monetary order as compensation for unpaid rent or utilities / compensation for damage to the unit, site or property / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of all or a part of the security deposit & pet damage deposit / and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

### Preliminary Matters

The landlord claimed that he found it difficult to name both tenants in the on-line application for dispute resolution and, as a result, the landlords' application names only male tenant "JL." Accordingly, female tenant "JC" consented to an amendment to the landlords' application, pursuant to which she is also named as a tenant / respondent in this proceeding.

### Issue(s) to be Decided

Whether the landlords are entitled to any of the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, the fixed term of tenancy was from February 1, 2012 to January 31, 2013. Monthly rent of \$1,450.00 was due and payable in advance on the first day of each month. The parties also agreed that the fixed amount of \$80.00 per month would be collected for utilities. Collection of payment for utilities was made in the month following the month for which it was due (ie: \$80.00 due for utilities in February would be collected in March). In summary, the tenants were responsible for a total monthly payment of rent and utilities combined in the amount of \$1,530.00 (\$1,450.00 + \$80.00).

A security deposit of \$725.00 and a pet damage deposit of \$750.00 were both collected, and a move-in condition inspection & report were completed with the participation of both parties.

For reasons which included, but were not necessarily limited to, the tenants' failure to pay the full amount of rent due for June, and complaints about noise allegedly received from other tenants, the landlords wished to end the tenancy. The landlords gave notice to the tenants to vacate the unit in part, by way of letter dated June 1, 2012, which was served by way of attachment to another letter to the tenants dated June 19, 2012. The letter of June 19, 2012 was posted on the tenants' door on that same date, June 19, 2012. The letter of June 19, 2012 informs the tenants that they are to vacate the unit "by noon on the 29<sup>th</sup> June 2012." Subsequently, the tenants vacated the unit on June 29, 2012, and the keys to the unit were returned on July 4, 2012.

There is no evidence before me that the parties ended the tenancy by way of the use of a "1 month notice to end tenancy for cause," or a "10 day notice to end tenancy for unpaid rent or utilities," or a "mutual agreement to end a tenancy" form.

A move-out condition inspection report was completed by the landlords in the absence of the tenants on June 29, 2012.

The landlord testified that advertising for new renters was undertaken by way of craigslist as well as newspapers delivered locally in the North Vancouver and Burnaby areas. Ultimately, new renters were found for the unit effective August 1, 2012, with an agreement reached for monthly rent of \$1,450.00.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Based on the documentary evidence and testimony, the various aspects of the landlords' application and my findings around each are set out below.

**\$450.00\***: unpaid rent for June. As the tenants do not dispute this aspect of the landlords' claim, I find that the landlords have established entitlement to the full amount claimed.

**\$80.00:** *unpaid utilities for May.* As the tenants do not dispute this aspect of the landlords' claim, I find that the landlords have established entitlement to the full amount claimed.

**\$100.00:** *unpaid utilities for June.* On the basis of the agreement reached between the parties, pursuant to which monthly utilities will be paid in the amount of \$80.00, and in the absence of any documentary evidence supporting a claim to the contrary, I find that the landlords have established entitlement limited to **\$80.00\***.

**\$2,900.00:** *loss of rental income for July & August (2 x \$1,450.00).* Residential Tenancy Policy Guideline # 3 addresses "Claims for Rent and Damages for Loss of Rent," in part as follows:

The damages awarded are an amount sufficient to put the landlord in the same position as if the tenant had not breached the agreement. As a general rule this includes compensating the landlord for any loss of rent up to the earliest time that the tenant could legally have ended the tenancy. This may include compensating the landlord for the difference between what he would have received from the defaulting tenant and what he was able to re-rent the premises for the balance of the un-expired term of the tenancy.

I find that the landlords have established entitlement to loss of rental income in the amount of **\$1,450.00** for the month of July. Specifically, I find that July was included within the fixed term of tenancy, and after the tenants vacated the unit at the end of June, despite timely efforts undertaken by the landlords to find new renters, the unit was vacant for the month of July.

As new renters took possession of the unit effective August 1, 2012, the landlords' application for loss of rental income of \$1,450.00 for August is hereby dismissed.

**\$250.00:** *cleaning ("unauthorized cat and smoking").* I note that the tenancy agreement appears to be silent on any provision concerning pets or smoking. As to pets in particular, the landlord was satisfied that the tenants possessed a dog. However, the landlord claimed that an understanding was reached with the tenants pursuant to which cats were not permitted in the unit.

As to smoking, the tenants claimed that their smoking was limited to outside the unit.

Further to the absence of any reference in the tenancy agreement to pets or smoking, and in the absence of any explanatory documentation in support of the particular cost

claimed for cleaning, in addition to the absence of evidence that the landlords provided the tenants with 2 opportunities in the approved form to conduct a move-out condition inspection, this aspect of the application is hereby dismissed. Further, the attention of the parties is drawn to the following sections of the Act:

Section 23: **Condition inspection: start of tenancy or new pet**

Section 24: **Consequences for tenant and landlord if report requirements not met**

Section 35: **Condition inspection: end of tenancy**

Section 36: **Consequences for tenant and landlord if report requirements not met**

As well, the parties are referred to Part 3 (sections 14 to 21) of the Regulation which addresses **Condition Inspections**.

\$100.00: damages from installing window covers. In the absence of any documentary evidence that the landlords provided the tenants with 2 opportunities in the approved form to conduct a move-out condition inspection, and in the absence of any documentary evidence in support of the particular cost claimed, this aspect of the application is hereby dismissed.

\$100.00: costs of advertising for new renters. In the absence of any documentary evidence in support of the particular cost claimed, this aspect of the application is hereby dismissed.

\$50.00\*: filing fee. As the landlords have achieved a measure of success with their application, I find that they have established entitlement to recovery of the full fee.

Following from all of the above, I find that the landlords have established entitlement to compensation in the total amount of \$2,110.00. I order that landlords retain the security deposit and pet damage deposits in the combined total amount of \$1,475.00 (\$725.00 + \$750.00), and I grant the landlords a monetary order under section 67 of the Act for the balance owed of \$635.00 (\$2,110.00 - \$1,475.00).

### Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlords in the amount of \$635.00. Should it be necessary, this order may be served on the tenants, filed in the Small Claims Court, 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: September 26, 2012.

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Residential Tenancy Branch