



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNDC, MNSD, FF

### Introduction

This hearing concerns an application by the landlords for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee. The landlords attended and gave affirmed testimony.

The landlords testified that the application for dispute resolution and the notice of hearing (the “hearing package”) was served on the tenant by way of registered mail. Further, the landlords testified that the Canada Post website informs that the item was “successfully delivered.” Despite this, the tenant did not appear.

### Issue(s) to be Decided

Whether the landlords are entitled to 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 March 1, 2012 to February 28, 2013. Thereafter, the agreement provides that tenancy may continue on a month-to-month basis. Monthly rent of \$971.00 is due and payable in advance on the first day of each month, and a security deposit of \$500.00 was collected.

By way of e-mail dated December 2, 2012, the tenant gave notice to end tenancy effective December 31, 2012. Subsequently, the tenant completed the full removal of her possessions from the unit on January 2, 2013.

Thereafter, by e-mail dated January 7, 2013 the tenant provided the landlords with a forwarding address for the purposes of repayment of her security deposit. The landlords filed their application for dispute resolution on the next day, January 8, 2013.

The landlords testified that they commenced on-line advertising for new renters on or about December 7, 2012, and that new renters were found effective February 1, 2013.

### 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)

Section 45 of the Act addresses **Tenant's notice**, in part as follows:

45(2) A tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that

- (a) is not earlier than one month after the date the landlord receives the notice,
- (b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and
- (c) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Section 7 of the Act addresses **Liability for not complying with this Act or a tenancy agreement**:

7(1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

(2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Based on the documentary evidence and the affirmed / undisputed testimony of the landlords, I find that the tenant's manner of giving notice to end the fixed term tenancy does not comply with the above statutory provisions. I further find that the landlords undertook to mitigate their loss by advertising for new renters in a timely fashion.

In the result, I find that the landlords have established entitlement to a claim of **\$1,021.00**, which is comprised of loss of rental income for January 2013 of \$971.00, in addition to the \$50.00 filing fee. I order that the landlords retain the security deposit of **\$500.00**, and I grant the landlords a **monetary order** for the balance owed of **\$521.00** (\$1,021.00 - \$500.00).

### Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlords in the amount of **\$521.00**. Should it be necessary, this order may be served on the tenant, 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: April 2, 2013

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Residential Tenancy Branch

