



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

The Landlord said he served the Tenants with the Application and Notice of Hearing (the "hearing package") by registered mail on February 14, 2013. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenants' absence.

### Issues(s) to be Decided

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

### Background and Evidence

This tenancy started on June 1, 2012 as a fixed term tenancy with an expiry date of May 31, 2013. Rent was \$1,295.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$650.00 and a pet deposit of \$650.00 on May 18, 2012. The Landlord said the Tenants moved out of the rental unit on November 15, 2012 without written notice to the Landlord. The Landlord said a move in condition inspection was completed and signed on June 1, 2012 and a move out inspection was not completed as the Tenants left the unit and did not communicate with the Landlord.

The Landlord said that the Tenants did not pay \$425.00 of rent for October, 2012 and \$1,295.00 for November, 2012. The Landlord said he issued a 10 Day Notice to End Tenancy dated November 1, 2012, which is in the Landlord's hearing package. As well the Landlord said the Tenants have unpaid utility bills for gas, hydro and water/garbage in the total amount of \$419.63. The Landlord said the receipts for the utilities are included in the evidence package. The Landlord continued to say that he is also claiming carpet cleaning as the tenancy agreement states the carpets are to be professionally cleaned at the end of the tenancy, but the Tenants did not clean the carpets. The Landlord said he submitted the carpet cleaning receipt with his evidence package.

Further the Landlord said the tenancy agreement has a fee of \$500.00 written into the agreement if the Tenant breaks the tenancy agreement and leaves the rental unit before the end of the fixed term tenancy. The Landlord said he re-rented the unit for December, 2012 and he is requesting the liquidated damages of \$500.00 to cover the costs he incurred to re-rent the unit. These costs included his time, advertising and showing the unit as well as cleaning the unit and hauling garbage away.

The Landlord also requested to recover the \$50.00 filing fee for his application.

### 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.

Section 45 of the Act says a Tenant may end a fixed term tenancy not earlier than the date specified in the tenancy agreement and it must be with written notice at least one month prior to the date that rent is payable or with the agreement of the Landlord.

The Tenants did not give the Landlords proper notice to end the tenancy and the Tenants do not have the right under the Act to withhold part or all of the rent; therefore I find the Tenants are responsible for the rent of \$425.00 for October, 2012 and for the rent of \$1,295.00 for November, 2012. Unpaid utilities are treated as unpaid rent if the Landlord gives the Tenants a formal demand to pay the utility bills. I find the Landlord has given the Tenants that demand in the application and therefore I award the Landlord \$419.63 of unpaid utilities.

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 Landlord has provided receipts for his claim of carpet cleaning in the amount of \$156.80 and the tenancy agreement has clause 22 in the addendum that states a \$500.00 fee will be charge if the Tenant breaks the tenancy agreement before the end of the fixed term of the tenancy. The Landlord said this is not a penalty but covers his time and expenses to advertise and show the property to potential new tenants. I accept the Landlord's evidence and testimony and award the Landlord the \$156.80 for carpet cleaning and the \$500.00 for liquidated damages for the Tenants breaking the tenancy agreement.

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

|       |                    |             |
|-------|--------------------|-------------|
|       | Rent arrears:      | \$ 1,720.00 |
|       | Unpaid utilities   | \$ 419.63   |
|       | Carpet cleaning    | \$ 156.80   |
|       | Liquidated damages | \$ 500.00   |
|       | Recover filing fee | \$ 50.00    |
|       | Subtotal:          | \$2,846.43  |
| Less: | Security Deposit   | \$ 650.00   |
|       | Pet Deposit        | \$ 650.00   |
|       | Subtotal:          | \$ 1,300.00 |
|       | Balance Owing      | \$ 1,546.43 |

Conclusion

A Monetary Order in the amount of \$1,546.43 has been issued to the Landlord. A copy of the Order must be served on the Tenants: 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*.

Dated: May 08, 2013

---

Residential Tenancy Branch