



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

<u>Dispute Codes</u>	Tenant MNDC, MNSD Landlord MNR, MNSD, FF
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### Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlords and the Tenant.

The Landlords filed seeking a monetary order for compensation for unpaid rent or utilities, to retain the Tenant's security deposit and to recover the filing fee for this proceeding.

The Tenant filed seeking a monetary order for compensation for damage or loss under the Act, the regulations or the tenancy agreement and for the return of the Tenant's security deposit.

Service of the hearing documents by the Landlords to the Tenant were done by registered mail on May 2, 2013, in accordance with section 89 of the Act.

The Tenant did not attend the hearing therefore the application was not supported with any testimony or evidence by the Tenant. Consequently, I dismiss the Tenant's application without leave to reapply.

### Issues to be Decided

Landlord:

1. Is there unpaid rent or utilities and if so how much?
2. Are the Landlords entitled to unpaid rent or utilities and if so how much?
3. Are the Landlords entitled to retain the Tenant's security deposit?

### Background and Evidence

This tenancy started on September 1, 2012 as a month to month tenancy. Rent was \$850.00 per month payable on the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$425.00 on September 1, 2012.

The Landlord said the Tenant moved out of the rental unit on March 31, 2013 and did not pay the utility bill of \$638.05 from the start of the tenancy to the end of the tenancy. The Landlord said they received the utility bill on March 11, 2013 and then requested the Tenant pay 50% of the bill as indicated in the Tenancy Agreement dated August 28, 2012. The Landlord said he did not include utility costs from August, 2012 to September 7, 2012 as that is when the Tenant actually moved in to the unit. The Landlord said he is claiming \$638.05 in unpaid utilities and he submitted a paid invoice to support his claim.

The Landlord also said he is requesting to recover the filing fee of \$50.00 for this proceeding from the Tenant.

### Analysis

Section 26 of the Act 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 46 (6) (b) of the Act says utility charges that are unpaid more than 30 days after the tenant is given written demand for the payment of them are treated as unpaid rent.

I accept the Landlords' evidence and testimony that the Utilities in the amount of \$638.05 are unpaid and that the Landlord gave the Tenant formal written demand in the application package that was sent to the Tenant by registered mail on May 2, 2013. Consequently I award the Landlord unpaid utilities in the amount of \$638.05.

As the Landlords have been 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 utility arrears. The Landlord will receive a monetary order for the balance owing as following:

	Unpaid utilities:	\$ 638.05	
	Recover filing fee	\$ 50.00	
	Subtotal:		\$ 688.05
Less:	Security Deposit	\$ 425.00	
	Subtotal:		\$ 425.00
	Balance Owing		\$ 263.05

### Conclusion

A Monetary Order in the amount of \$263.05 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.

I dismiss the Tenant's application without leave to reapply.

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: July 22, 2013

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Residential Tenancy Branch

