



# 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 matter dealt with an application by the Landlord for a Monetary Order for unpaid rent, for compensation for damage to the unit, site or property, for compensation for loss or damage 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 Tenants with the Application and Notice of Hearing (the "hearing package") by registered mail on May 14, 2013. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlords' 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. Are the Landlords entitled to compensation for unpaid rent and if so how much?
3. Are there damages to the unit and if so how much?
4. Are the Landlords entitled to compensation for the damage and if so how much?
5. Are there other losses or damages and are the Landlords entitled to compensation?
6. Are the Landlords entitled to keep the Tenants' security deposit?

### Background and Evidence

This tenancy started on September 1, 2012 as a fixed term tenancy with an expiry date of August 31, 2012. The tenancy agreement was redone on September 1, 2012 as a month to month tenancy. Rent was \$1,600.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$800.00 on August 20, 2012. The Landlord said the Tenants moved out of the rental unit on May 13, 2013 as a result of a 10 Day Notice to End Tenancy dated May 2, 2013.

The Landlord said that the Tenant did not pay rent of \$1,600.00 for May, 2013 and were late on many of the other rent payments. As a result the Landlord had an agent hand

deliver a 10 Day Notice to End Tenancy for unpaid rent of \$1,600.00 dated May 2, 2013.

The Landlord continued to say that the Tenants did not pay outstanding utilities and there was damage to the rental unit, but the Landlords did not provide any supporting evidence to verify the loss. The Landlord said she did not know she had to provide this evidence until it was too late to submit it for the hearing. The Landlord said she understood why this evidence was required to support a damage claim.

The Landlord also requested to retain the security deposit of \$800.00 as partial payment of the unpaid rent.

### 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 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 unpaid rent for May, 2013 in the amount of \$1,600.00. I award the Landlord \$1,600.00 in unpaid rent.

For a monetary claim for damage or 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 did not prove any evidence to prove or verify the damage or loss occurred; therefore the Landlord has not met the requirements to establish grounds to be awarded compensation for damage or loss. Consequently I dismiss the Landlords' damage and loss claims for lack of evidence.

As the Landlords have been partially successful in this matter, the Landlords are also entitled to recover from the Tenants 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 Tenants' security deposit in payment of the rent arrears. The Landlords will receive a monetary order for the balance owing as following:

|       |                    |             |
|-------|--------------------|-------------|
|       | Rent arrears:      | \$ 1,600.00 |
|       | Recover filing fee | \$ 50.00    |
|       | Subtotal:          | \$1,650.00  |
| Less: | Security Deposit   | \$ 800.00   |
|       | Subtotal:          | \$ 800.00   |
|       | Balance Owing      | \$ 850.00   |

### Conclusion

A Monetary Order in the amount of \$850.00 has been issued to the Landlords. 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: August 14, 2013

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Residential Tenancy Branch

