



# Dispute Resolution Services

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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 January 3, 2014. 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 with all parties in attendance.

### 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 Tenants' security?

### Background and Evidence

This tenancy started on August 1, 2013 as a fixed term tenancy for one year. Rent was \$1,325.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$660.00 on July 15, 2013. The Tenants said they moved out of the unit on December 31, 2013. Both Parties agreed there were move in and move out condition inspection reports completed at the start and the end of the tenancy.

The Landlord said the Tenants did not give him proper notice to end the tenancy. The Landlord continued to say that the Tenants are responsible for the January, 2014 rent of \$1,325.00 because they gave him written notice on December 12, 2013 that they were

moving out on December 31, 2013. The Landlord said this is not proper notice to end a tenancy. The Landlord said he has applied for the January, 2013 rent of \$1,325.00 and to retain the Tenants' security deposit of \$660.00 as partial payment of the unpaid rent.

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

The Tenants said they gave the Landlord verbal notice on December 3, 2013, a text notice on December 10, 2013 and written notice on December 12, 2013 that they were ending the tenancy and moving out on December 31, 2013. The Tenants continued to say that the Landlord broke the tenancy agreement by not fixing items indicated on the move in condition inspection report. As well the Tenants said they did not feel safe in the rental unit because of the number of issues. The Tenants said some of these issues were the back door not working, items not being repaired, a rodent problem, mold in the unit and problems with the other tenants. As a result the Tenants believed the Landlord broke the contract and they could end the tenancy early.

The Landlord said he has a maintenance man, but he has been ill so things did not get done as he would have liked them to be done. As well the Landlord said the Tenants only commented on these things towards the end to the tenancy and after the tenancy ended.

The Tenants said in closing that things that were promised to be repaired were not and they did not feel safe in the rental unit so they ended the tenancy with less than one month notice.

The Landlord said in closing that the Tenants are responsible for the January, 2014 rent because they did not give him proper notice to end the tenancy.

### 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.

Notice given to the Landlord in writing on December 12, 2013 has an effective vacancy date of January 31, 2014 not December 31, 2013. I find the Tenants did not give the Landlord proper notice to end the tenancy.

As the Tenants did not give the Landlord 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 \$1,325.00 for January, 2014.

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 in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as following:

	Rent arrears:	\$ 1,325.00
	Recover filing fee	\$ 50.00
	Subtotal:	\$1,375.00
Less:	Security Deposit	\$ 660.00
	Subtotal:	\$ 660.00
	Balance Owing	\$ 715.00

### Conclusion

A Monetary Order in the amount of \$715.00 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: April 16, 2014

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Residential Tenancy Branch

