



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

**OPR, MNR, MDN, MNSD, FF**

### Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of possession for unpaid Rent, a monetary Order for unpaid rent and damage to the unit, compensation for damage or loss under the Act, to retain the security deposit and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

The landlord provided a copy of a Canada Post tracking document indicating that the copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenants via one registered mail package sent to the rental unit address on July 24, 2014. The landlord supplied a photograph of the Delivery Notice that left in the tenant's mail box by Canada Post. By July 28, 2014 the Notice had been removed from the mailbox but the tenants failed to pick up the mail from the post office. A Canada Post tracking number was provided on the tracking document.

The landlord provided affirmed testimony that he wished to proceed against E.L. only.

I have accepted that these documents are deemed to have been served on the 5<sup>th</sup> day after mailing, to tenant E.L., in accordance with section 89 and 90 of the Act; however the tenant did not appear at the hearing. Failure to retrieve registered mail does not allow a party to avoid service and it is apparent that the tenants were aware of the registered mail as the Notice was removed from the mail box.

### Preliminary Matters

The tenants vacated in early August 2014, based on an Order of possession issued on July 17, 2014.

### Issue(s) to be Decided

Is the landlord entitled to a monetary Order?

May the landlord retain the security deposit paid by the tenants?

Is the landlord entitled to filing fee costs?

### Background and Evidence

The tenancy commenced on January 1, 2014; a copy of the tenancy agreement and 2 page addendum was supplied as evidence. Rent was \$975.00 per month due on the first day of each month. A security deposit in the sum of \$475.00 was paid.

The addendum included a \$15.00 fee for each trip the landlord had to make to the dump and an additional \$100.00 for each additional occupant approved of by the landlord. A late rent fee was set at \$25.00.

On May 2, 2014 the landlord gave E.L. a note informing her that rent would be increased by \$300.00 each month. There were now 4 additional adults and their children living in the home.

The landlord has made the following claim:

Unpaid rent May – August 2014	\$3,900.00
Late fees May – August 2014	100.00
Additional occupant rent May – August 2014	1,200.00
3 garbage trips	60.00
Money lent to E.L.	20.00
Dog damage	50.00
Bedroom wall damage repair	50.00
TOTAL	\$5,380.00

The last time the tenants paid rent was in April 2014. All tenants vacated in early August, after the Order of possession was served in July, 2014. The tenants have not supplied a written forwarding address to the landlord.

The landlord supplied photographs taken of the outside of the rental unit and the laundry room, showing a significant amount of garbage, including old mattresses that he had to take to the dump. The landlord claimed more than the sum indicated in the tenancy agreement as fees at the landfill have increased. The landlord said he actually did at least 6 trips to the dump.

The landlord was informed that money lent to an individual was outside the jurisdiction of the Act.

The landlord provided photographs showing dog excrement left by the tenants and a large hole dug by the dog. There were 2 holes in the yard that needed to be repaired. The landlord and a tenant of another unit on the property spent time cleaning up dog feces and a claim has been made for the time spent.

The landlord said that the tenants left a hole below the master bedroom window that was approximately 1 foot across. The landlord made the repair himself.

### Analysis

When making a claim for damages under a tenancy agreement or the Act, the party making the allegations has the burden of proving their claim. Proving a claim in damages requires that it be established that the damage or loss occurred, that the damage or loss was a result of a breach of the tenancy agreement or Act, verification of the actual loss or damage claimed and proof that the party took all reasonable measures to mitigate their loss.

Based on the evidence before me and the absence of the tenant who was served with Notice of this hearing, I find that the landlord is entitled to compensation for unpaid rent from May to July 2014 and loss of August 2014 rent revenue in the sum of \$1,275.00 per month. The tenant signed agreeing to additional rent costs if more people lived in the unit and was informed, in writing, that the increase was being imposed. The landlord chose not to increase rent for the additional children.

I find that the landlord is entitled to compensation in the sum of \$75.00 late fees from May to July 2014, inclusive. I have dismissed the claim for an August late fee as the tenancy ended in July when the Order of possession was served. The sum owed beyond the effective date of the Order of possession was for revenue, not rent.

A tenant is required to leave a rental unit in a reasonably clean and undamaged state at the end of a tenancy. From the evidence before me I find, on the balance of probabilities, that the landlord is entitled to the sums claimed for garbage hauling, cleaning up after the dog and repairs. There was a significant amount of garbage outside of the home and in the laundry room and I have accepted the testimony in relation to the wall damage. I have decreased the sum claimed for garbage hauling to \$45.00; to reflect the amount indicated in the addendum signed by the parties; the balance is dismissed.

I find that the landlord's application has merit and, pursuant to section 72 of the Act that the landlord is entitled to recover the \$50.00 filing fee from the tenant for the cost of this Application for Dispute Resolution.

Pursuant to section 72 of the Act, I find that the landlord is entitled to retain the \$475.00 security deposit in partial satisfaction of the claim.

Therefore, the landlord is entitled to the following compensation:

Unpaid rent/revenue May – August 2014	\$3,900.00	\$3,900.00
Late fees May – August 2014	100.00	75.00
Additional occupant rent May – August 2014	1,200.00	1,200.00

3 garbage trips	60.00	45.00
Money lent to E.L.	20.00	0
Dog damage	50.00	50.00
Bedroom wall damage repair	50.00	50.00
<b>TOTAL</b>	<b>\$5,380.00</b>	<b>\$5,320.00</b>

Based on these determinations I grant the landlord a monetary Order for the balance of \$4,895.00. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

### Conclusion

The landlord is entitled to a monetary Order for sums claimed; less the sum of \$60.00 which is dismissed and did not have jurisdiction.

The landlord may retain the security deposit.

The landlord is entitled to filing fee costs.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: September 05, 2014

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Residential Tenancy Branch

