



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, FF

### Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the Residential Tenancy Act ("Act"). The landlord applied for a monetary order for unpaid rent and for recovery of the filing fee paid for this application.

The landlord's agent and tenant "SA" (hereafter "tenant"), representing both tenants, attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing, the tenant confirmed that they had received the landlord's documentary evidence. Neither party raised any issues regarding service of the application or the evidence.

Thereafter both participants were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent and to recovery of the filing fee paid for this application?

### Background and Evidence

The written tenancy agreement submitted by the landlord shows that this 13 month, fixed term tenancy began on October 1, 2014, monthly rent is \$1450.00, and that the tenants paid a security deposit of \$725.00.

The undisputed evidence shows that while the tenants are still residing in the rental unit, the home was sold by the landlord and that the new owners are now the tenants' landlords.

In support of their application, the landlord's documentary evidence and the landlord's agent submitted that the tenants failed to pay the monthly rent due for December 2014, due under the tenancy agreement, and that as a result, the tenants owe the landlord the amount of \$1450.00, which is the landlord's monetary claim.

The landlord's agent submitted that the home was sold to new owners in November 2014, but that the completion date was December 15, 2014.

*Tenant's response-*

The tenant agreed that rent for December 2014 was not paid, but submitted that they withheld rent for that month due to the landlord's lack of agreed upon repairs to the rental unit. The tenant submitted further that her husband, tenant "EA", was required to make essential repairs to the rental unit, due to the landlord's lack of compliance with their obligation.

The tenant submitted further that the rental unit was not clean or painted when they moved into the rental unit, which they, the tenants had to perform, and that they were misinformed by the landlord, as they did not expect that the rental unit would be listed for sale at the inception of the tenancy.

*Landlord's rebuttal-*

The landlord's agent submitted that the tenants' tenancy was protected in the sale of the rental unit, as the fixed term was listed as a term and condition of the sale of the home.

Analysis

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that results. Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss. Under section 67 of the Act, an arbitrator may determine the amount of the damage or loss resulting from the that party not complying with the Act, the regulations or a tenancy agreement, and order that that party to pay compensation to the other party.

Under section 26 of the Act, a tenant is required to pay rent in accordance with the terms of the tenancy agreement and is not permitted to withhold rent without the legal right to do so. A legal right may include the landlord's consent for deduction; authorization from an Arbitrator or expenditures incurred to make an "emergency repair", as defined by the Act. As the tenants have not submitted evidence under

section 33 of the Act that any alleged repairs were necessary for the health and safety reasons or that there were any emergency repairs which were urgent, they have not met this criteria.

I find that the tenants owed rent for the month of December 2014, under the terms of the tenancy agreement, and did not pay.

I therefore find that the landlord is entitled to a monetary award of \$1500.00, comprised of unpaid rent of \$1450.00 for December 2014, due to the tenants' breach of section 26 of the Act, and the \$50.00 filing fee paid by the landlord for this application, which I have granted them pursuant to section 72(1) of the Act.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the amount of their monetary award of \$1500.00, which is enclosed with the landlord's Decision.

Should the tenants fail to pay the landlord this amount without delay after the order has been served upon them, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenants are advised that costs of such enforcement are recoverable from the tenants.

### Conclusion

The landlord's application has been successful, as they have been granted a monetary award of \$1500.00, comprised of unpaid rent for December 2014 and the filing fee of \$50.00.

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: June 8, 2015

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Residential Tenancy Branch

