



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, MNR, MNSD, FF

### Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent, to recover the filing fee for this proceeding and to keep the Tenants' security deposit in partial payment of those amounts.

The Landlord said he served the Tenants with the Application and Notice of Hearing (the "hearing package") by registered mail on July 24, 2015. 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 in the Tenants absence.

The Landlord said the Tenants moved out on July 31, 2015, therefore the Landlord is withdrawing the application for an Order of Possession as they have possession of the rental unit.

### 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 the Landlord entitled to keep the Tenants' security deposit?

### Background and Evidence

This tenancy started on March 1, 2012 as a fixed term tenancy with an expiry date of February 28, 2013 and then continued on a month to month basis. Rent was \$1,345.82 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$625.00 on February 16, 2012. The Landlord said the Tenants moved out of the rental unit on July 31, 2015 as a result of the Landlord's two Notices to End Tenancy.

The Landlord said that the Tenant did not pay \$2,476.28 in rent, parking and late fees as of July 2, 2015 so the Landlord issued a 10 Day Notice to End Tenancy dated July 2, 2015.

Further the Landlord said the rent late fees were not included on the application so he is not claiming the late rent fees now. The Landlord said his claim is for \$895.82 for June, 2015 rent, \$1,345.82 for July, 2015 rent and \$80.00 for parking for each month of June and July, 2015. The Landlord said his total claim is \$2,401.64.

The Landlord also requested to recover the filing fee of \$50.00 for this proceeding.

### 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 periodic tenancy not earlier at least one month prior to the date that rent is payable or with the agreement of the Landlord.

The Tenants did not give the Landlords 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 \$895.82 for the month of June, 2015 and for rent of \$1,345.82 for the month of July, 2015. As well I find that the parking fees are part of the tenancy agreement therefore I also award the parking fees to the Landlord in the total amount of \$160.00.

As the Landlord has been successful in this matter, the Landlord 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 and parking arrears:	\$ 2,401.64
	Recover filing fee	\$ 50.00
	Subtotal:	\$ 2,451. 64
Less:	Security Deposit	\$ 625.00
	Subtotal:	\$ 625.00
	Balance Owing	\$ 1,826.64

Conclusion

A Monetary Order in the amount of \$1,826.64 has been issued to the Landlord. A copy of the Orders 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: September 30, 2015

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Residential Tenancy Branch

