



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes CNC, RR, RP, OLC, MNDC, FF

### Introduction

This hearing dealt with an application by the tenant seeking to have a One Month Notice to End Tenancy for Cause set aside, a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement, an order to have the landlord comply with the Act, an order to make the landlord make repairs to the unit, site or property, an order to allow the tenant to reduce the rent for repairs, services or facilities agreed to but not provided, and an order to recover the filing fee for this application.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

### Preliminary Issues

At the outset of the hearing the tenant advised that the only items that he will be pursuing as part of this hearing are the monetary order and an order to recover the filing fee. The tenant stated that he will be moving out on July 15, 2016 and does seek to cancel the landlords' notice to end tenancy, accordingly; the tenants' application is dismissed except for the monetary order and the recovery of the filing fee. The hearing proceeded and completed on that basis.

### Issues to be Decided

Is the tenant entitled to a monetary order?

Is the tenant entitled to the recovery of the filing fee?

### Background and Evidence

The tenant gave the following testimony:

The tenancy began on or about January 15, 2016. Rent in the amount of \$1275.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$637.50 and a pet deposit of \$637.50. The tenant stated that the landlords promised the tenants use and access to the backyard.

The tenants stated that the landlords “painted a picture” of this beautiful space but failed to deliver. The tenants stated that the yard was covered in dog feces and that the smell was so bad that they had to shut their adjacent windows of their unit to limit the amount of smell coming in. The tenants stated that they advised the landlord of this issue but were told that they “don’t pick up dog poo” when it rains. The tenants stated that they made about two verbal requests to the landlord to remedy the problem but to no avail. The tenants stated that they then made two written requests for the landlord to resolve the matter but were again unsuccessful.

The tenants stated that they feel that “one hundred something per month” for each month is fair compensation and seek a monetary order of \$700.00 and the \$100.00 filing fee.

The landlords gave the following testimony. The landlords stated that they adamantly dispute the tenants claim. The landlords stated that the tenants seek compensation for the time period of mid-February to mid-June, most of which is rainy season and were not inconvenienced. The landlords stated that they take great pride in this yard and that the four unit home is pet friendly. The landlords stated that they regularly clean up the yard and that the tenants were aware at the outset of their tenancy that six dogs would be sharing this space.

The landlords stated that the tenants did not advise them of this issue as they have testified to. The landlords stated that when they did receive a complaint from the tenants they immediately cleaned up the yard as they also live there with their children and often play basketball in the yard. The landlords stated that they routinely cleaned up prior to their basketball games.

### Analysis

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the tenant’s claim and my findings around each are set out below.

Section 67 of the Act states that when a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. **To prove a loss the applicant must satisfy all four of the following four elements:**

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and

4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

The tenants have not provided sufficient evidence to support each of the four parts as outlined above to be successful in their application, specifically #2 and #3. In addition, the tenants should have reasonably known or ought to have known that multi living dwelling that was pet friendly; specifically to dogs would have more pet issues than a non pet rental. The tenants themselves were dog owners and chose this home because of its friendly and welcoming pet friendly policy. The tenants have failed to provide sufficient evidence that the landlords were negligent or reckless. Furthermore, the tenants were very vague as to how they calculated the amount of compensation they were entitled to. BS stated that the “one hundred something” over six months should be used to calculate while his roommate said the time frame is four months with no number offered to quantify their request. The tenants’ testimony was contradictory to each other at times. Based on the above, the insufficient evidence before me and on a balance of probabilities, I dismiss the tenants request for a monetary order and the recovery of the filing fee.

As the tenants chose not to dispute the notice to end tenancy, the landlord is granted an order of possession for 1:00 p.m. on July 15, 2016. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

#### Conclusion

The landlord is granted an order of possession.

The tenants’ application is dismissed.

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: July 07, 2016

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Residential Tenancy Branch