



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, FF

### Introduction

On July 9, 2016, the Tenants applied for dispute resolution seeking money owed or compensation for damage or loss under the *Residential Tenancy Act* (“the Act”), regulation, or tenancy agreement and to recover the cost of the filing fee.

The Tenants attended the hearing; however, the Landlords did not. The Tenants provided affirmed testimony that the Landlords were served with the Notice of Hearing by sending it using Canada Post Registered Mail on July 14, 2016. The Tenants testified that they checked the status of the mail delivery online and that the mail was delivered. The Tenants provided the registered mail receipt numbers as proof of service.

The Tenant testified that the Landlord responded to their claim by sending them a letter dated December 11, 2016, stating that due to insurance reasons the applicants could not be accepted.

The Landlord sent a copy of the same letter dated December 11, 2016, to the Residential Tenancy Branch on November 14, 2016.

I find that the Landlord was served with the Notice of Hearing in accordance with sections 89 and 90 of the Act.

At the start of the hearing I introduced myself. The hearing process was explained. The Tenants evidence was reviewed. The Tenants were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

- Are the Tenants entitled to compensation for damage or loss?
- Are the Tenant entitled to recover the cost of the filing fee?

### Background and Evidence

The Tenants provided a copy of a tenancy agreement that indicates the tenancy was to start on March 1, 2016, as one year fixed term tenancy. Rent in the amount of \$2,200.00 was due on the first day of each month. A security deposit of \$1,100.00 was paid by the Tenant to the Landlord. The tenancy agreement was signed by the Tenant T.B. and by the Landlord's agent J.M. on February 11, 2016.

The Tenants testified that the Landlord breached the tenancy agreement by refusing to allow them to take possession of the rental unit. The Tenants testified that nine days after signing the tenancy agreement, the Landlord contacted them and informed them that they could not have the rental unit. The Tenants testified that the Landlord told them he had sold the rental property.

The Tenants lived in a different city, than the address in dispute, and they testified that they had given Notice at their current residence and had accepted a job offer. The Tenants testified that they were pressured to find a new rental property as soon as possible.

The Tenants testified that they made arrangements to view vacant rental properties which required ferry costs, gas costs and hotel costs.

The Tenants testified that they found a rental property and signed a tenancy agreement on March 19, 2016.

The Tenants are seeking compensation from the Landlord for the following items:

Hotel Accommodation	\$182.11
Ferry Costs	\$172.10
Gas Costs	\$230.40
Freezer and Bedroom Set	\$425.00
Wage Compensation	\$1400.00
Moving Costs	\$300.00

### Analysis

Section 7 of the Act states if a Landlord or Tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying Landlord or Tenant must compensate the other for damage or loss that results.

Section 16 of the Act states that the rights and obligations of a Landlord and Tenant under a tenancy agreement take effect from the date the tenancy agreement is entered into, whether or not the Tenant ever occupies the rental unit.

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I find that the parties entered into a tenancy agreement and the Tenants had a right to possess the rental unit. I find that the Landlord breached the tenancy agreement by refusing to allow the Tenants possession of the rental unit and the Landlord is responsible to compensate the Tenants for damage or loss.

The Landlord was served with Notice of the hearing and failed to attend. The Tenants claims for compensation are un-opposed. I find that the Tenants are entitled to be compensated for the following items:

Hotel Accommodation	\$182.11
Ferry Costs	\$73.85
Gas Costs	\$125.65
Freezer and Bedroom Set	\$0
Wage Compensation	\$0
Moving Costs	\$300.00 (cost increase)

The Tenants testified that they found a rental property and entered into a tenancy agreement on March 19, 2016. I award the Tenants the hotel accommodation, ferry and gas expenses for searching for a rental unit up to the date of March 19, 2016.

I decline a monetary award to the Tenants for \$1,400.00 for lost wages due to their search for a rental property as I do not find this claim to be reasonable.

I decline an award to the Tenants for \$425.00 for the freezer and bedroom set. The sale or disposal of these items was a personal choice by the Tenants, and I do not find the Landlord is responsible to compensate the Tenants for these items.

The Tenants are awarded \$300.00 for moving costs, since the Tenants costs increased due to the Landlords refusal to allow them possession of the rental unit.

Section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. As the Tenants were partially successful in their application, I order the Landlord to repay the \$100.00 fee that the Tenants paid to make application for dispute resolution.

In total, I award the Tenants a monetary order in the amount of \$781.61. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Landlord is cautioned that costs of such enforcement are recoverable from the Landlord.

### Conclusion

The Tenant's application was partially successful. I grant the Tenants a monetary order in the amount of \$781.61. This order must be served on the Landlord and may be enforced in Provincial Court.

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: January 13, 2017

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Residential Tenancy Branch