



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes                      MNSD, MNDC, FF, O

### Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution wherein the Landlord sought monetary compensation from the Tenant, authority to retain the Tenants' security deposit and recovery of the filing fee.

The hearing of this matter was scheduled for 3:00 p.m. on April 18, 2017. Only the Landlord's agent, N.M., called into the hearing. He provided affirmed testimony and made submissions on behalf of the Landlord.

N.M. testified that he served the Notice of Hearing, the Landlord's Application for Dispute Resolution and the Landlords' evidence on both Tenants by registered mail on October 19, 2016. A copy of the tracking numbers for both packages is included on the unpublished cover page of this my Decision. Pursuant to section 90 of the *Residential Tenancy Act*, documents served by registered mail are deemed served five days later; accordingly, I find the Tenants were served as of October 24, 2016 and I proceeded with the hearing in their absence.

The Tenants failed to attend the hearing or submit any evidence. As a result, the Landlord's application proceeded as unopposed.

I have reviewed the Landlord's evidence in making my decision; however, I will not reproduce all of the Landlord's evidence or submissions and only evidence relevant to the issues to be decided will be recorded in this my Decision.

### Issues to be Decided

1. Is the Landlord entitled to monetary compensation from the Tenants?
2. Should the Landlord be authorized to retain the Tenants' security deposit?
3. Should the Landlord recover the \$100.00 filing fee paid for his applciatin.

### Background and Evidence

N.M. testified that the 1 year fixed term tenancy began October 1, 2015. He stated that rent was payable in the amount of \$1,400.00.

The amount of rent indicated on the tenancy agreement provided in evidence appeared to be \$1,100.00. The third page of the tenancy agreement was also missing such that I could not determine the amount of the security deposit paid. During the hearing I asked N.M. to resend the tenancy agreement by fax to the Branch for my review. I confirm that on April 24, 2017 I received a complete copy of the tenancy agreement and considered it in making this my Decision.

Introduced in evidence was a copy of a text message from the Tenant, S.K., wherein he wrote that he would return the keys and fob to the Landlord on October 2, 2016 at 2:00 p.m.

N.M. testified that the Tenant moved out of the rental unit on October 3, 2016. He further stated that he was unable to enter the rental unit, as the keys were not returned by the Tenant until October 11, 2016. He confirmed that he hired the services of a locksmith on October 4, 2016 to enter the rental unit.

In the within action the landlord sought the sum of \$295.82 as the cost to rekey the rental unit as well as \$186.68 for the four days the Tenant stayed beyond the end of the fixed term.

### Analysis

In a claim for damage or loss under section 67 of the *Act* or the tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the Landlord has the burden of proof to prove their claim.

Section 7(1) of the *Act* provides that if a Landlord or Tenant does not comply with the *Act*, regulation or tenancy agreement, the non-complying party must compensate the other for damage or loss that results.

Section 67 of the *Act* provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

I find that the Tenants were obligated to pay monthly rent in the amount of \$1,400.00. I further find the Tenant paid a security deposit in the amount of \$700.00.

I accept the Landlord's undisputed evidence and testimony that the Tenants failed to vacate the rental unit as of September 30, 2016 and failed to provide the Landlord with keys to the rental unit such that the Landlord was forced to obtain the services of a locksmith. In doing so, the

Tenants breached their fixed term tenancy agreement thereby preventing the Landlord from renting the rental unit on October 1, 2016 and incurring the cost to rekey the rental unit.

I therefore award the Landlord the amounts claimed for the \$295.82 cost to rekey the rental unit, as well as \$186.68 for the days the Tenants over-held their tenancy. As the Landlord has been successful, I also grant him recovery of the \$100.00 filing fee for total compensation in the amount of **\$582.57**.

I authorize the Landlord to retain \$582.57 from the Tenant's security deposit. The Landlord must return the \$117.43 balance to the Tenants.

### Conclusion

The Landlord is granted compensation in the amount of \$582.57 including the \$295.82 cost to rekey the rental unit, \$186.68 for the four days the Tenants over-held their tenancy and recovery of the filing fee. The Landlord may retain \$582.57 of the Tenants' \$700.00 security deposit as compensation for the amount awarded.

The Tenants are granted a monetary order for the balance of their security deposit in the amount of **\$117.43**. This Order must be served on the Landlord and may be filed and enforce in the B.C. Provincial Court (Small Claims Division) if necessary.

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: April 24, 2017

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Residential Tenancy Branch