



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR MNDC FF

### Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution, received at the Residential Tenancy Branch on December 14, 2016, and amended by an Amendment to an Application for Dispute Resolution, received at the Residential Tenancy Branch on March 1, 2017 (the "Application"). The Landlords applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for unpaid rent or utilities;
- a monetary order for money owed or compensation for damage or loss; and
- an order granting recovery of the filing fee.

K.F. attended the hearing on behalf of both Landlords. The Tenant attended the hearing on her own behalf. Both parties in attendance provided a solemn affirmation.

K.F. testified the Tenant was served with the Application package, in person using a process server, on or about December 22, 2016. An affidavit of service was included with the Landlords' documentary evidence, and the Tenant acknowledged receiving the Landlords' evidence package. In addition, K.F. testified that he served the Amendment to an Application for Dispute Resolution on the Tenant, in person using a process server, on March 6, 2017. An affidavit of service was submitted with the Landlords' documentary evidence, and the Tenant acknowledged receipt. I find the Tenant was duly served with the Application package and the Amendment to an Application for Dispute Resolution in accordance with the *Act*. The Tenant did not submit any documentary evidence in response to the Application.

The parties were provided with the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. 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

1. Are the Landlords entitled to a monetary order for unpaid rent or utilities?
2. Are the Landlords entitled to a monetary order for money owed or compensation for damage or loss?
3. Are the Landlords entitled to an order granting recovery of the filing fee?

### Background and Evidence

The Landlords rent a home and sublet a basement suite to the Tenant with the owner's consent. The parties agreed the fixed-term tenancy began on June 1, 2016, and was to continue until March 31, 2018. However, the Tenant vacated the rental unit without notice at the beginning of December 2016. During the tenancy, rent in the amount of \$1,300.00 per month was due on the first day of the month. The Tenant paid a security deposit of \$650.00, which the Landlords hold.

On behalf of both Landlords, K.F. claimed he did not receive rent from the Tenant for December 2016 and was unable to rent the unit, despite reasonable efforts, until February 2017. Accordingly, they claimed \$1,300.00 for lost rent for January 2017. K.F. testified the Landlords were unable to rent the property until February 2017, at which time it was rented at a lower rate of \$1,100.00 per month. As a result, the Landlords also sought to recover a shortfall of \$200.00 per month from February 1 to June 30, 2017. A portion of the new tenancy agreement confirming rental of the unit at a lower rate was submitted with the Landlords' documentary evidence. The Landlords also sought to recover \$95.00 for process server fees incurred to effect service of documents on the Tenant. K.F. testified that the Landlords are owed \$3,395.00, plus the \$100.00 filing fee paid to make the Application.

In reply, the Tenant acknowledged she has not paid rent as claimed by the K.F. However, she testified there were a number of reasons for this. She testified the owners did not permit cats to live in the rental unit. Had she known, she would not have entered into the tenancy. In addition, the Tenant testified the Landlords entered the rental unit without proper notice. There were also issues with the hot water tank and the

Landlords asked the Tenant to take showers at certain times. Further, the Tenant testified there were no “poles” from which to hang clothes in the closet, and the Landlords did not install them when asked. The Tenant also stated the garbage was always full and that she had to take it to a larger dumpster at her mother’s residence. As an explanation for why she did not apply for dispute resolution to deal with these issues, she testified that she worked long hours.

### Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

If damage or loss results from a party not complying with the *Act*, Regulation or a tenancy agreement, section 67 of the *Act* empowers an arbitrator to determine the amount of, and order a party to pay, compensation to the other party.

In this case, the Tenant did not dispute that she had entered into a fixed-term tenancy for the period ending March 31, 2018. Neither did she dispute that she vacated the premises in early December 2016, without giving notice. Further, she did not dispute that she did not pay rent to the Landlords as alleged. Rather, the Tenant testified she had reasons for vacating the rental unit, which I do not accept. The Tenant’s remedy was to apply for dispute resolution, not to unilaterally end the tenancy without paying rent when due. Accordingly, I grant the Landlords an award for unpaid and lost rent in the amount of \$3,600.00.

With respect to the Landlords’ claim to recover \$95.00 for fees paid to serve documents using a process server, I find these items are not compensable. The *Act* provides for no- or lower-cost methods of service.

The Landlords sought to recover the amount of the filing fee, which I allow. I also order that the Landlord apply the security deposit held to the monetary award granted. Pursuant to section 67 of the *Act*, I grant the Landlords a monetary order in the amount of \$3,050.00, which has been calculated as follows:

<b>Claim</b>	<b>Amount awarded</b>
Unpaid rent (December 2016):	\$1,300.00
Lost rent (January 2017):	\$1,300.00
Lost rent (February 1 to June 30, 2017):	\$1,000.00
Filing fee:	\$100.00
LESS security deposit:	(\$650.00)

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<b>TOTAL:</b>	<b>\$3,050.00</b>
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Conclusion

The Landlords are granted a monetary order in the amount of \$3,050.00. This order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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 13, 2017

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Residential Tenancy Branch