



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNDC, MNR, FF

### Introduction

This hearing convened as a result of cross applications. In the Landlords' Application for Dispute Resolution filed on September 15, 2017 they sought monetary compensation from the Tenant for unpaid rent and recovery of the filing fee as well as authority to retain the Tenant's security and pet damage deposit. In the Tenant's Application for Dispute Resolution filed September 29, 2017 she sought return of her deposits paid as well as recovery of the filing fee.

The hearing was conducted by teleconference on April 16, 2018. Both parties called into the hearing. The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The parties agreed that all evidence that each party provided had been exchanged. No issues with respect to service or delivery of documents or evidence were raised.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Branch Rules of Procedure*. However, not all details of the respective submissions and or arguments are reproduced here; further, 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 monetary compensation from the Tenant?
2. What should happen with the Tenant's security and pet damage deposit?

3. Should either party recover the filing fee?

Background and Evidence

The Landlord, R.S. testified that the tenancy began May 1, 2017. The rental period was for a one year fixed term ending May 31, 2018. Monthly rent was payable in the amount of \$625.00. The Tenant paid \$625.00 in total for a security deposit and a pet damage deposit.

R.S. further testified that the Tenant gave notice to end the tenancy on August 23, 2017 and moved out the end of August 2017. A copy of her letter was provided in evidence by the Landlords however the copy was too faint for me to see. I provided the Landlord with the Branch's fax number for the purposes of sending a clear copy. I confirm I received the copy on April 18, 2017 and considered it in making my Decision.

The Tenant alleged she had given written notice to end her tenancy at the end of July. She further alleged she submitted a copy of this letter in evidence. No such letter was provided by the Tenant. However, notably the Tenant submitted a letter from a prospective renter (who was suggested by the Tenant) in which he writes that as of August 18, 2017 the Landlords did not have written notice from the Tenant to end her tenancy.

R.S. stated that he was able to re-rent the rental unit as of November 6, 2017. He confirmed that the monthly rent payable is \$625.00. The Landlords provided copies of their advertising, receipts for the cost of same as well as all the applications received by prospective renters.

In the within action the Landlords sought monetary compensation for loss of rent for September and October 2017.

R.S. stated that he was "picky" in terms of who they would rent to due to the fact they have done a lot of work on the rental unit; he also stated there isn't a large rental pool of tenants from which to choose.

The Landlords also requested recovery of the filing fee in the amount of \$100.00.

In response to the Landlords' claims the Tenant confirmed that she did end the tenancy early. She stated that the Landlords had two rental units available at the time her tenancy ended. She stated that she found a suitable person, W.C., a person whom she

worked with, to take over her lease and W.C. was initially approved to rent. When W.C. asked to rent the subject rental unit, the Tenant alleges the Landlords offered the other rental unit and then disqualified him forcing the unit to remain empty.

The Tenant also stated she also found another potential tenant, T.W. to take over the lease. The Tenant stated that the Landlords disqualified her as she was in receipt of income assistance.

The Tenant stated that there is a housing crisis in the community in which the rental unit is located and that she is a housing outreach worker.

In reply, R.S. stated that W.C. applied to rent the rental unit however at the time the Landlords had yet to receive proper written notice from the Tenant. R.S. informed W.C. that she had yet to give written notice, and as such he was not able to offer the rental unit to W.C. He further stated that when he received written notice from the Tenant, "circumstances changed" as he no longer wanted to rent to W.C. as W.C. insisted that the rental unit required various changes to the exterior.

R.S. stated that he did not rent to T.W. because she could not afford the rental unit as she only received \$1,000.00 per month in income and would not be able to afford the \$625.00 in rent in addition to utilities and living expenses.

### Analysis

After consideration of the testimony of the parties, the evidence filed, and on a balance of probabilities, I find as follows.

I find, based on the R.S.' testimony and the Tenant's letter of August 23, 2017 submitted in evidence that the Tenant gave written notice to end the tenancy on August 23, 2017 and moved out the end of August 2017.

Although the Tenant alleged she had given written notice to end her tenancy at the end of July, she failed to submit proof of this. Notably, in her August 23, 2017 letter she writes: "On July 31, I informed you electronically of my intent to move effective Aug. 30/17". This electronic communication was not provided in evidence. As such, I am unable to determine whether it complies with sections 45 and 52 in terms of a Tenant's notice to end a tenancy.

As noted, the Tenant submitted a letter from W.C. in which he writes that as of August 18, 2017 the Landlords did not have written notice from the Tenant to end her tenancy.

I therefore find that the Tenant gave notice to end her tenancy on August 23, 2017. The effective date of her notice, pursuant to section 45 of the *Act*, is September 30, 2017.

Consequently, I find the Landlords are entitled to unpaid rent for September 2017.

I also find that the Landlords are entitled to loss of rent for October 2017, as they were unable to rent the unit until November 2017.

The Landlords alleged there was a minimal pool of acceptable renters from which to choose in the community in which the rental unit is located. The Tenant alleged there is a housing crisis. Without corroborating evidence I am unable to reconcile these claims or make any findings with respect to the rental housing market.

The Tenant alleges the Landlords failed to mitigate their losses by refusing to rent the rental unit to individuals suggested by her. R.S. testified that the first person, W.C., asked for her rental unit prior to the Tenant giving proper written notice. He further stated that after he had received written notice, he decided not to rent to W.C. as he was asking for numerous changes to the exterior of the rental unit and the Landlords felt this was a sign he would be a problem tenant. The letter submitted by W.C. confirms he believed changes were required. The Landlords also stated that the second person, T.W., was not financially able to afford the rental unit based on her limited income.

Although it is clear the Tenant attempted to assist the Landlords by suggesting possible renters, the Landlords are not obligated to accept these people as tenants. I accept R.S.' testimony that he was concerned W.C. would be problematic based on his demands for changes to the exterior of the rental unit; I further accept his testimony that he worried T.W. would not be able to afford the rent.

The Landlords submitted evidence of their attempts to advertise the unit as well as the applications from all interested renters. This evidence confirms that the Landlords made their best efforts to rent the rental unit as soon as possible and I therefore find that they met their obligation to minimize their losses as required by section 7 of the *Act*.

Having been substantially successful I find, pursuant to section 72, that the Landlords are entitled to recovery of the \$100.00 filing fee.

Conclusion

The Landlords are entitled to monetary compensation in the amount of \$1,350.00 calculated as follows:

unpaid rent for September 2017	\$625.00
Loss of rent for October 2017	\$625.00
Filing fee	\$100.00
<b>TOTAL AWARDED</b>	<b>\$1,350.00</b>

I authorize the Landlords to retain the Tenant's security and pet damage deposit in the amount of \$625.00 and I grant the Landlords a Monetary Order for the balance due in the amount of \$725.00. This Order must be served on the Tenant as soon as possible and may be filed and enforced in the B.C. Provincial Court (Small Claims Division).

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 20, 2018

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Residential Tenancy Branch