



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 634245 BC LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR MNDC FF

### Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, received at the Residential Tenancy Branch on December 14, 2017 (the "Application"). The Landlord 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.

The Landlord was represented at the hearing by C.S., an agent, who provided affirmed testimony. The Tenants did not attend the hearing.

On behalf of the Landlord, C.S. confirmed the Tenants were served with the Application package by registered mail. In support, the Landlord submitted Canada Post tracking information confirming receipt on December 27, 2017. I find the Tenants received the Application package on that date. The Tenants did not submit documentary evidence in response to the Application.

On behalf of the Landlord, C.S. was provided with a full 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 and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters

On July 27, 2017, a Residential Tenancy Branch adjudicator issued a decision relating to the Landlord's application by Direct Request Proceeding, pursuant to section 55(4) of the *Act*. The Landlord was granted a monetary order for unpaid rent in the amount of \$950.00 for the months of June and July 2017, and an order of possession effective two (2) days after service on the Tenants. Copies of the orders were included with the Landlord's documentary evidence. The file number of the previous proceeding is included above for ease of reference.

During the hearing, C.S. advised that the Landlord made two errors during the previous proceeding. First, the amount of the monetary order sought exceeded what was actually owed by the Tenants. He confirmed the Tenants owe \$882.00 in unpaid rent for June and July 2017, not \$950.00 as ordered. Second, C.S. advised that the name of the Tenant G.K. (named as G.H. in the previous proceeding) was misspelled in the previous proceeding. On behalf of the Landlord, C.S. requested that these two errors be corrected in this Decision. C.S. confirmed that no enforcement action has been taken with respect to the orders.

### Issues to be Decided

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

### Background and Evidence

The Landlord submitted copies of two tenancy agreement between the parties into evidence. The first tenancy agreement confirmed a tenancy relating to #610 began on June 1, 2017. According to C.S., the Tenants were unhappy in #610 and the building manager permitted the Tenants to move into #584, even though rent was outstanding. A second tenancy agreement submitted by the Landlord confirmed a tenancy with respect to #584 commenced on September 20, 2017. However, the Tenants did not provide the Landlord with keys to #610, left some of their belongings in the unit, and permitted a family member and her boyfriend to reside there. The Tenants continue to occupy #584. At all material times, rent was due in the amount of \$675.00 per month. The Tenants paid a security deposit of \$337.50, which the Landlord holds.

The Landlord's claim was set out in the Application. First, the Landlord claimed \$328.99 for unpaid electricity charges. In support, the Landlord relied upon the tenancy agreement submitted, which confirms that electricity charges were not included in rent. The Landlord also submitted a BC Hydro invoice for the period from October 13 to November 15, 2017, which indicated a balance owing of \$328.99.

Second, the Landlord claimed \$2,907.00 in unpaid rent in #610. A Monetary Order Worksheet, dated December 19, 2017, was submitted in support.

As noted above, the Tenants moved from #610 to #584 on or about September 20, 2017. However, the Landlord was unable to obtain possession of #610 until mid-November 2017. According to C.S., this was because the Tenants permitted a family member to occupy #610 and would not return the keys.

Finally, the Landlord also sought to recover the \$100.00 filing fee paid to make the Application.

The Tenants did not attend the hearing to dispute the Landlord's evidence.

### Analysis

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

Section 67 of the *Act* empowers the director to order one party to pay compensation to the other if damage or loss results from a party not complying with the *Act*, regulations or a tenancy agreement.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided for in sections 7 and 67 of the *Act*. An applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and

4. That the party making the application did what was reasonable to minimize the damage or loss.

In this case, the burden of proof is on the Landlord to prove the existence of the damage or loss, and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Tenants. Once that has been established, the Landlord must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Landlord did what was reasonable to minimize the damage or losses that were incurred.

With respect to the Landlord's claim for unpaid utility charges, I find the Landlord is entitled to a monetary award of \$328.99. The Landlord submitted a copy of the tenancy agreement between the parties which confirmed electricity charges were not included in rent. In addition, the Landlord submitted a copy of the BC Hydro invoice confirming the amount outstanding to be \$328.99.

With respect to the Landlord's claim for unpaid rent, I find the Landlord is entitled to a monetary award of \$2,907.00, which consists of unpaid rent in the amount of \$882.00 for June and July 2017, and \$2,025.00 for September to November 2017, as summarized in the Monetary Order Worksheet submitted by the Landlord.

Having been successful, I also find the Landlord is entitled to recover the filing fee paid to make the Application. Accordingly, pursuant to section 67 of the *Act*, I grant the Landlord a monetary order in the amount of \$2,998.49, which has been calculated as follows:

<b>Claim</b>	<b>Amount due</b>
Unpaid rent (Jun.-Jul. 2017):	\$882.00
Unpaid rent (Sept.-Nov. 2017):	\$2,025.00
Unpaid utilities:	\$328.99
Filing fee:	\$100.00
<i>LESS</i> security deposit:	(\$337.50)
<b>TOTAL:</b>	<b>\$2,998.49</b>

Further, I order that the monetary order issued on July 27, 2017, referenced above, is of no force or effect.

### Conclusion

The Landlord is granted a monetary order in the amount of \$2,998.49. The order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

The monetary order issued on July 27, 2017, referenced above, is of no force or effect.

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 4, 2018

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Residential Tenancy Branch