



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Decision Codes: FFL, MNDCL – S

### **Introduction**

The Application for Dispute Resolution filed by the Tenant makes the following claims:

- a. A monetary order in the sum of \$4260
- b. An order to retain the security deposit.
- c. An order to recover the cost of the filing fee.

The tenant(s) failed to appear at the scheduled start of the hearing which was 1:00 p.m. on July 10, 2018. A representative of the landlord was present and ready to proceed. I left the teleconference hearing connection open and did not start the hearing until 10 minutes after the schedule start time in order to enable the tenant to call in. The tenants failed to appear. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I then proceeded with the hearing. The representative of the landlord was given a full opportunity to present affirmed testimony, to make submissions and to call witnesses.

I find that the Application for Dispute Resolution/Notice of Hearing was served on the Tenants by mailing by registered mail to where they reside. The package was received by the Tenants on May 9, 2018. I determined that the document sent by the landlord reducing the claim was received by the Tenants by registered mail on June 8, 2018. With respect to each of the applicant's claims I find as follows:

### **Issues to be Decided**

The issues to be decided are as follows:

- a. Whether the landlord is entitled to a monetary order and if so how much?
- b. Whether the landlord is entitled to retain the security deposit and pet damage deposit?
- c. Whether the landlord is entitled to recover the cost of the filing fee.

### **Background and Evidence:**

The parties entered into a one year fixed term tenancy agreement that provided that the tenancy would start on September 1, 2017, end on August 31, 2018 and become month

to month after that. The tenancy agreement provided that the tenant(s) would pay rent of \$850 per month payable on the first day of each month. The tenant(s) paid a security deposit of \$425 and a pet damage deposit of \$425 at the start of the tenancy for a total of \$850.

The tenants vacated the rental unit on April 30, 2018 after giving the landlord one month notice. However, the landlord was not able to rent the rental unit until May 16, 2018.

#### Monetary Order and Cost of Filing fee

With respect to each of the landlord's claims I find as follows:

- a. I determined the landlord is entitled to the sum of \$411.30 for the pro-rated portion of the rent for the period May 1, 2018 to May 15, 2018. Where the parties enter into a fixed term tenancy the tenants are responsible to pay the rent to the end of the fixed term subject to the landlord's obligation to mitigate their loss. I determined the landlord acted reasonably in attempting to re-rent the rental unit. I determined the landlord is entitled to the amount claim for damages for loss of rent.
- b. I determined the landlord is entitled to \$860 pursuant to the liquidated damage clause in the tenancy agreement. I am satisfied the amount claim is a genuine pre-estimation of the loss. The tenants breached the contract with 4 months left on the fixed term.

In summary I determined the landlord has established a monetary claim against the tenant(s) in the sum of \$1271.30. I dismissed the claim to recover the cost of the filing fee as it was not included in the Amended Application for Dispute Resolution.

#### Security Deposit

I determined the security deposit and the pet damage deposit totals the sum of \$850. I determined the landlord is entitled to retain this sum. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$421.30.

#### Conclusion

In summary I determined the landlord has established a monetary order against the tenant(s) in the sum of \$1271.30. I ordered the landlord may retain the security deposit/pet deposit in the sum of \$850. In addition I ordered that the Tenants pay to the Landlord the sum of \$421.30.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

**This decision is final and binding on the parties.**

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: July 10, 2018

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Residential Tenancy Branch