



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CASCADIA APARTMENT RENTALS LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes MNDCT, MNSD, FFT, MNRL-S, MNDCL-S, FFL

### Introduction

This hearing dealt with applications from both the landlord and the tenants under the *Residential Tenancy Act* (the *Act*). The landlord applied for:

- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants applied for:

- a monetary order for compensation for losses or other money owed under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to obtain a return of all of their security deposit pursuant to section 38; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

As both parties confirmed that they received copies of the other parties' dispute resolution hearing packages by registered mail well in advance of this hearing, I find that the parties were duly served with these packages in accordance with section 89 of the *Act*. Since both parties confirmed that they had received one another's written evidence, I find that the written evidence was served in accordance with section 88 of the *Act*.

### Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent and losses arising out of this tenancy? Are the tenants entitled to a monetary award for losses or other money owed arising

out of this tenancy? Should any orders be issued with respect to the security deposit for this tenancy? Are either of parties entitled to recover their filing fees for this application?

### Background and Evidence

On February 16, 2019, the parties signed a one-year fixed term Residential Tenancy Agreement for a period that was to run from March 14, 2019 until February 29, 2020. Monthly rent was set at \$2,500.00, payable in advance on the first of each month. The landlord continues to hold the tenants' \$1,250.00 security deposit paid on February 16, 2019.

Although the tenants paid a pro-rated portion of rent for March 2019, they did not remain in the rental unit, as they had a number of issues with respect to the condition of the rental unit. Their principal concern was that there was a pervasive smell of pet urine in the rental unit, which presented a serious problem to one of the tenants, who has allergies that would not have enabled them to remain in the rental unit.

The landlord's original claim was for a monetary award of \$4,959.00 plus the recovery of their filing fee. The landlord's claim included a request for \$1,209.00 in rent for March 2019, the loss of \$2,500.00 in rent for April 2019, and a liquidated damages claim of \$1,250.00. At the hearing, Landlord ZB said that the tenants did pay for one-half month's rent for March 2019, so the landlord reduced the amount of their requested claim by \$1,209.00 to \$3,750.00.

The tenants' claim for a monetary award of \$2,459.68 plus recover of their filing fee included a request for the return of their \$1,250.00 security deposit and recovery of the \$1,209.00 they paid in rent for March 2019.

At the hearing, the landlord said that they had been successful in locating new tenants who had moved into this rental unit as of May 1, 2019, for a monthly rent of \$2,550.00.

### Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the parties engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding resolution of their dispute:

1. The landlord agreed to return the tenants' \$1,250.00 security deposit to the tenants by May 31, 2019.
2. The landlord agreed to contact the tenants by telephone as soon as the \$1,250.00 security deposit cheque is available for the tenants to pick up that cheque at the landlord's office.

3. The tenants agreed that the landlord could retain the rent cheque they paid for rent for the month of March 2019.
4. Both parties agreed to withdraw the remaining portions of their applications for monetary awards and agreed to not pursue any further applications for compensation of any type from one another arising out of this tenancy.
5. Both parties agreed that this settlement agreement constituted a final and binding resolution of their applications and all issues currently in dispute arising out of this tenancy and that they did so of their own free will and without any element of force or coercion having been applied.

### Conclusion

In order to implement the above settlement reached between the parties, I order the landlord to return the tenant's \$1,250.00 security deposit by May 31, 2019. As discussed, I deliver a monetary Order in the tenants' favour in support of the above agreement for use **only** in the event that the landlord does not abide by the terms of the above settlement. The tenants are provided with these Orders in the above terms and the landlord must be served with this Order as soon as possible after any failure to abide by the terms of this portion of their agreement. Should the landlord fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

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: May 09, 2019

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Residential Tenancy Branch