



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC   MNR   MNSD   FF

This hearing dealt with the Landlords' Application for Dispute Resolution, made on June 5, 2019, and amended on June 9, 2019 (the "Application"). The Landlords applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession based on a One Month Notice to End Tenancy for Cause, dated April 29, 2019 (the "One Month Notice");
- a monetary order for unpaid rent or utilities;
- an order permitting the Landlords to retain the security deposit held in partial satisfaction of the claim; and
- an order granting recovery of the filing fee.

The Landlord A.K. attended the hearing on behalf of both Landlords, and provided affirmed testimony. The Tenants did not attend the hearing.

On behalf of the Landlords, A.K. testified the Application package and Amendment were served of the Tenants by registered mail on or about June 15, 2019. Pursuant to sections 89 and 90 of the Act, documents served by registered mail are deemed to be received 5 days later. Therefore, I find the Tenants are deemed to have received these documents on June 20, 2019. The Tenants did not submit documentary evidence in response to the Application.

On behalf of the Landlords, A.K. was 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 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

At the outset of the hearing, A.K. testified that the Tenants vacated the rental unit on or about June 27, 2019. Therefore, A.K. withdrew the Landlords' request for an order of possession. I accept the Landlords' withdrawal.

### Issues to be decided

1. Are the Landlords entitled to a monetary order for unpaid rent or utilities?
2. Are the Landlords entitled to an order permitting the Landlords to retain the security deposit?
3. Are the Landlords entitled to an order granting recovery of the filing fee?

### Background and Evidence

On behalf of the Landlord, A.K. confirmed the tenancy began on August 1, 2017. As noted above, the Tenants vacated the rental unit on or about June 27, 2019. During the tenancy, rent in the amount of \$1,150.00 per month was due on the first day of each month. The Tenants paid a security deposit in the amount of \$500.00, which the Landlords hold.

The Landlords request a monetary order for unpaid rent. A.K. testified the Tenants did not pay rent when due on June 1 and July 1, 2019. Although the Tenants vacated the rental unit on June 27, 2019, the unit has not been re-rented. No partial payments have been received and \$2,300.00 is outstanding.

The Landlords also seek an order permitting them to retain the security deposit in partial satisfaction of the claim. In addition, the Landlords request an order granting recovery of the \$100.00 filing fee paid to make the Application.

### Analysis

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

With respect to the Landlords' request for a monetary order for unpaid rent, section 26 of the *Act* states:

*A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

[Reproduced as written.]

Although the Tenants vacated on June 27, 2019, the Landlords were unable to re-rent the unit effective July 1, 2019. Therefore, I find the Tenants did not pay rent when due on June 1 and July 1, 2019. Rent in the amount of \$2,300.00 remains outstanding. I find the Landlords are entitled to a monetary award for unpaid rent in the amount of \$2,300.00.

Having been successful, I also find the Landlords are entitled to recover the \$100.00 filing fee paid to make the Application. I also find it appropriate to order that the Landlords retain the security deposit held in partial satisfaction of the claim. Therefore, pursuant to section 67 of the *Act*, I find the Landlords have demonstrated an entitlement to a monetary order in the amount of \$1,900.00 which has been calculated as follows:

<b>Claim</b>	<b>Amount</b>
Unpaid rent:	\$2,300.00
Filing fee:	\$100.00
LESS security deposit:	(\$500.00)
<b>TOTAL:</b>	<b>\$1,900.00</b>

### Conclusion

The Landlords are granted a monetary order in the amount of \$1,900.00. The 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: July 25, 2019

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Residential Tenancy Branch