



# 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      MNR, MNDC, MNSD, FF

### Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent, compensation for loss or damage under the Act, regulations and tenancy agreement, to retain the Tenants' security deposit and to recover the filing fee for this proceeding.

The Landlord said she served the Tenants with the Application and Notice of Hearing (the "hearing package") by registered mail on July 25, 2019. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties represented.

### Issues(s) to be Decided

1. Is there unpaid rent and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent and if so how much?
3. Is there loss or damage to the Landlord and if so how much?
4. Is the Landlord entitled to compensation for loss or damage and if so how much?
5. Is the Landlord entitled to keep the Tenants' security deposit?

### Background and Evidence

This tenancy started on April 17, 2017 as a fixed term tenancy with an expiry date of March 31, 2018 and then continued on a month to month basis. Rent was \$2,025.00 per month payable on the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$950.00 at the start of the tenancy. The Landlord said the Tenants gave notice by email on June 13, 2019 to move out of the rental unit on July 14, 2019.

The Landlord said that the Tenant did not pay the full \$2,025.00 of rent for July 2019. The Landlord continued to say that on the move out condition inspection report dated

July 14, 2019 it indicates the Tenant agreed that the Landlord could retain the security deposit of \$950.00 as partial payment of the July 2019 rent. The Landlord said they are applying for the full amount of the July 2019 rent in the amount of \$2,025.00 and a \$25.00 late fee that is specified Schedule A, clause one of the tenancy agreement. As well, the Landlord requested to recover the filing fee of \$100.00 if the Landlord's application is successful. The Landlord said their total claim is \$2,150.00

The Tenant said they have been involved with tenancies in which they move in and/or out in the middle of the month. The Tenants said they hoped to negotiate an end of tenancy with the Landlord for July 14, 2019 as they were moving to a new tenancy. The Tenants continued to say they understood from the Landlord that a mid-month end of tenancy was not likely but their understanding was that it was not confirmed by the Landlord. The Tenants said they were not sure what was happening and the Landlord stopped communicating with them. As a result the Tenants moved out on July 14, 2019, cleaned the rental unit well and told the Landlord to retain their security deposit of \$950.00 as partial payment of the July 2019 rent. The Tenants said they hoped to negotiate the end of tenancy and the costs associated with it but the Landlord stopped communicating with them.

The Landlord said she told the Tenants when she received the email requesting to end the tenancy that the Tenants were responsible for the July 2019 rent because notice was given on June 13, 2019.

The Female Tenant said in closing it would have been helpful to them to have known what was happening and the Landlord would have communicated with them. As well the Female Tenant said she is concerned that their financial situation may not be in a position to pay the Landlord anything.

The Male Tenant said in closing this is a poor situation and he is disappointed with the process. He thought they were good tenants and he would have like to have negotiated an end to the tenancy.

The Landlord said in closing that she was very clear the Tenants were responsible for the July 2019 rent because they gave notice to end the tenancy to her on June 13, 2019.

**Analysis**

Section 26 says 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.

Section 45 of the Act says: (1)A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

- (a)is not earlier than one month after the date the landlord receives the notice, and
- (b)is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

This means that if the Tenants gave there notice by email on June 13, 2019 for July 14, 2019. The Act would interpret the notice given on June 13, 2019 for this tenancy as any notice given in June 2019 is for an end of tenancy on July 31, 2019. The notice is base on one full month from the day or more prior to the day the rent payment date. Further notice to end a tenancy must be in writing and the Act does not accept emails as a method of written notice.

Consequently the Tenants did not give the Landlords proper notice to end the tenancy and the Tenants do not have the right under the Act to withhold part or all of the rent. I find the Tenants are responsible for the July 2019 rent in the amount of \$2,025.00 and the late fee of \$25.00 for the month of July 2019.

As the Landlord has been successful in this matter, she is also entitled to recover from the Tenants the \$100.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) and s. 72 of the Act to keep the Tenants' security deposit in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as following:

	Rent arrears:	\$ 2,025.00
	Late rent fee	\$ 25.00
	Recover filing fee	\$ 100.00
	Subtotal:	\$2,150.00
Less:	Security Deposit	\$ 950.00
	Subtotal:	\$ 950.00
	Balance Owing	\$ 1,200.00

Conclusion

A Monetary Order in the amount of \$1,200.00 has been issued to the Landlord. A copy of the Order must be served on the Tenants: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: October 29, 2019

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Residential Tenancy Branch