



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNRL-S, MNDCL-S, FFL

### Introduction

This hearing convened as a result of a Landlords' Application for Dispute Resolution, filed on December 15, 2020, in which the Landlords sought monetary compensation from the Tenants, authority to retain their security deposit and recovery of the filing fee.

The hearing of the Landlords' Application was scheduled for teleconference at 1:30 p.m. on April 26, 2021. Only the Landlords called into the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Tenants did not call into this hearing, although I left the teleconference hearing connection open until 1:51 p.m. Additionally, I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlords and I were the only ones who had called into this teleconference.

As the Tenants did not call in, I considered service of the Landlords' hearing package. The Landlord, L.W., testified that they served the Tenants with the Notice of Hearing and the Application on January 5, 2021 by registered mail. A copy of the registered mail tracking number for each package sent to the Tenants is provided on the unpublished cover page of this my Decision.

*Residential Tenancy Policy Guideline 12—Service Provisions* provides that service cannot be avoided by refusing or failing to retrieve registered mail and reads in part as follows:

Where a document is served by registered mail, the refusal of the party to either accept or pick up the registered mail, does not override the deemed service provision. Where the registered mail is refused or deliberately not picked up, service continues to be deemed to have occurred on the fifth day after mailing.

Pursuant to the above, and section 90 of the *Residential Tenancy Act* (the “Act”), documents served this way are deemed served five days later; accordingly, I find the Tenants were duly served as of January 10, 2021 and I proceeded with the hearing in their absence.

The Landlords were cautioned that recordings of the hearing were not permitted pursuant to *Rule 6.11* of the *Residential Tenancy Branch Rules*. The Landlords confirmed their understanding of this requirement and further confirmed they were not making recordings of the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Rules of Procedure*. However, not all details of the Landlords’ submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the Landlords and relevant to the issues and findings in this matter are described in this Decision.

#### Issues to be Decided

1. Are the Landlords entitled to monetary compensation from the Tenants?
2. Should the Landlords be authorized to retain the Tenants’ security deposit?
3. Are the Landlords entitled to recovery of the filing fee?

#### Background and Evidence

This tenancy began April 1, 2019. Monthly rent was payable in the amount of \$1,500.00 and the Tenants paid a \$750.00 security deposit.

L.W. testified that the Tenants stopped paying rent in February of 2020 and did not pay any rent until they were ordered to vacate the rental unit in late December 2020.

By Decision dated December 21, 2020, the Landlords were granted an Order of Possession and monetary compensation for unpaid rent for March 2020, September 2020, October 2020 and November 2020. In the hearing before me the Landlords

sought a further Monetary Order for rent owing for April to August 2020 as well as for December 2020.

The Landlords also sought recovery of the filing fee as well as authority to retain the \$750.00 security deposit towards any amounts awarded.

### Analysis

Section 26 of the *Act* provides that a tenant must pay rent when rent is due.

I find, based on the Landlords' undisputed testimony and evidence that the Tenants were obligated to pay monthly rent in the amount of \$1,500.00. I further find the Tenants ceased paying rent as of February 2020 yet remained in occupation of the rental unit until late December 2020 when they were ordered to vacate. In doing so the Tenants breached section 26 of the *Act* and the residential tenancy agreement.

By Decision dated December 21, 2020 the Landlords were awarded monetary compensation for the months March, September, October and November 2020. I therefore find they are entitled to the further sum of \$9,000.00 for the remaining five unpaid months; namely: April, May, June, July, August and December 2020.

As the Landlords have been successful in this Application, they are also entitled to recover the \$100.00 filing fee for a total monetary award of **\$9,100.00**.

I authorize the Landlords to retain the Tenants' \$750.00 security deposit pursuant to sections 38 and 72 of the *Act*.

The Landlords are therefore entitled to a Monetary Order in the amount of **\$8,350.00**. This Order must be served on the Tenants and may be filed and enforced in the B.C. Provincial Court (Small Claims Division).

### Conclusion

The Landlords' claim for monetary compensation for unpaid rent for April, May, June, July, August and December 2020 and recovery of the filing fee is granted.

The Landlords may retain the Tenants' security deposit and are awarded a Monetary Order for the balance due.

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 13, 2021

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Residential Tenancy Branch