



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNETC, FFT

### Introduction

On April 14, 2021, the Tenants applied for a Dispute Resolution proceeding seeking a Monetary Order pursuant to Section 51 of the *Residential Tenancy Act* (the “Act”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

Both Tenants attended the hearing. Landlord S.R. attended the hearing with A.D. attending as her agent. At the outset of the hearing, I explained to the parties that as the hearing was a teleconference, none of the parties could see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so. All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation.

The Tenants advised that only one Notice of Hearing and evidence package was served to S.R. by hand on April 17, 2021. S.R. confirmed that she received this package, and that she was prepared to proceed despite this package not being served to both Respondents. Based on this undisputed, solemnly affirmed testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlords were duly served the Notice of Hearing and evidence package. As such, I have accepted all of this evidence and will consider it when rendering this Decision.

The Tenants also advised that they submitted late evidence to the Residential Tenancy

Branch that was not served to the Landlords. As this evidence was not served to the other party, I have excluded this late evidence and will not consider it when rendering this Decision.

A.D. advised that the Landlords did not submit any evidence for consideration on this file.

I note that while the Tenants mistakenly made this claim for compensation under Section 51 of the *Act*, the parties agreed that this situation did not fall under that particular Section. However, as the Landlords were aware of and understood the claim for compensation against them, I have exercised my authority under Section 64 of the *Act*, to amend the Tenants' Application to more accurately reflect that this is a request for compensation under Section 67 of the *Act*.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

#### Issue(s) to be Decided

- Are the Tenants entitled to a Monetary Order?
- Are the Tenants entitled to recover the filing fee?

#### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy was supposed to start on April 1, 2021, that rent was established at \$1,000.00 per month, and that it was due on the first day of each month. As well, a security deposit of \$500.00 had also been paid on March 6, 2021. A partial copy of a tenancy agreement was submitted as documentary evidence for consideration. While the last page of this agreement was not provided, the Tenants stated that they signed it, while S.R. stated that it was her belief that it was also signed

by the Landlords.

Tenant K.B. referenced documentary evidence submitted of Facebook messages exchanged between the Tenants and the Landlords, first starting at the end of January 2021. On February 28, 2021, the Tenants received confirmation from the Landlords that the Tenants could give their notice to end the tenancy of the residence that they were currently renting, as the rental unit would be theirs to rent. On March 6, 2021, the parties met to sign the tenancy agreement that was supposed to start on April 1, 2021 as a fixed term tenancy of six months. The \$500.00 security deposit was also paid at this time.

On March 22, 2021 they received a message from the Landlords stating that the manufactured home park owner would only allow the Landlords to rent the rental unit for the six-month term that was already agreed to as per the tenancy agreement. However, on March 25, 2021, the Landlords contacted the Tenants and advised them that the owner of the park owner will now not allow the Landlords to rent their manufactured home at all. On March 26, 2021, the Landlords then returned the security deposit.

The Tenants advised that they were not sure how much to claim based on this scenario, but they stated that their claim for **\$6,000.00** was the cost of the rent that would have been owed for the duration of the tenancy. They are requesting this amount as the rental unit was suitable for Tenant L.A.'s prospective job, and that L.A. then subsequently lost this job opportunity when the Landlords effectively "cancelled" the tenancy agreement contrary to the *Act*. They referenced documentation submitted to confirm this job opportunity that was lost due to the Landlords' actions, and they stated that L.A. could not find a new job for a few months. As well, they reiterated that they were left to scramble to find a new residence as the Landlords cancelled this tenancy within a week of when it was scheduled to commence.

They submitted that their claim for compensation incorporates potential lost income, moving expenses, and storage of their property at a cost of \$200.00 per month. They submitted that they lost \$120.31 for the cost of internet service that they had secured for the rental unit. They advised that due to the immediacy of the situation the Landlords put them in, they were required to sell their property for a reduced cost. They stated that they eventually found a new place to rent for April 1, 2021; however, it was a much smaller rental unit and L.A. could not perform the job that she was offered, resulting in a loss of that job and income of \$2,500.00 per month. As well, they stated that rent for this new unit was \$750.00 per month.

A.D. advised that the Landlords did not realize that the manufactured home park owner would not allow rentals. The only options the park owner allowed were for the Landlords to live in the home or to sell it. They confirmed that the security deposit was returned as they were unable to rent the unit based on the park owner's direction.

Landlord S.R. acknowledged that they advised the Tenants that they could no longer move into the rental unit.

### Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

With respect to the Tenants' claims for damages, when establishing if monetary compensation is warranted, I find it important to note that Policy Guideline # 16 outlines that when a party is claiming for compensation, "It is up to the party who is claiming compensation to provide evidence to establish that compensation is due", that "the party who suffered the damage or loss can prove the amount of or value of the damage or loss", and that "the value of the damage or loss is established by the evidence provided."

When reviewing the totality of the evidence before me, while it is unclear whether a tenancy agreement was signed, it is undisputed that a security deposit was exchanged. Thus, at the very least, an unwritten, month-to-month tenancy agreement had been established on March 6, 2021. Section 44 of the *Act* outlines all the manners with which a tenancy may end, and there is no provision in the *Act* that allows the Landlords simply to cancel a tenancy after one has already been engaged in. As both parties confirmed that this is what transpired, I am satisfied that the Landlords breached the *Act*. While the Landlords claimed that they did so because they were not aware that they were not permitted to rent the unit, this is something that the Landlords should have determined prior to committing to a tenancy.

With respect to the Tenants' claims for compensation due to this breach of the *Act*, I find it important to note that the jurisdiction of the *Act* would not cover the loss of employment. While the Tenants have tied this into their loss of the tenancy, I find that

the Tenants must seek remedy for this loss of employment through the appropriate court of competent jurisdiction.

Regarding their other claims of loss, I note that the Tenants have not provided much in the way of documentary evidence to support their claims. However, as it is undisputed that the Tenants were prevented at the last moment from renting the unit after a tenancy was started, I accept that there would be some turmoil and loss suffered from this transition. As such, I accept that **\$200.00** for storage and **\$120.31** for internet would be reasonable costs that were incurred as a result of the Landlords' actions. However, regarding the Tenants' claim for a loss due to selling their property at a reduced cost, as they provided no documentary evidence to corroborate a specific figure, I am not satisfied that the Tenants' have established this portion of their claim.

While their claims for specific amounts of compensation were relatively undefined, I note that the burden to justify these losses rests on the Tenants, and I cannot grant an arbitrary figure that I believe would be commensurate with a loss that they experienced. However, given that there is a difference in the cost of the rental unit that they were forced to rent based on the urgency of having to find a new residence on short notice, I find it reasonable to award the Tenants an amount of **\$250.00**, which would represent the difference in what they currently paid for the first month of their new residence compared to what was owed as per the original tenancy that they were denied from renting. As the onus is on the Tenants to substantiate their claims, I do not find that they have adequately established an amount greater than this.

I also find it important to note that the Tenants could have mitigated their losses and avoided this situation altogether by applying through the Residential Tenancy Branch for an Order of Possession of the rental unit instead.

As the Tenants were partially successful in their claims, I find that the Tenants are entitled to recover the \$100.00 filing fee paid for this Application.

Pursuant to Sections 67 and 72 of the *Act*, I grant the Tenants a Monetary Order as follows:

#### **Calculation of Monetary Award Payable by the Landlords to the Tenants**

Item	Amount
Storage cost	\$200.00

Internet cost	\$120.31
Rent compensation	\$250.00
Filing Fee	\$100.00
<b>Total Monetary Award</b>	<b>\$670.31</b>

### Conclusion

The Tenants are provided with a Monetary Order in the amount of **\$670.31** in the above terms, and the Landlords must be served with **this Order** as soon as possible. Should the Landlords fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order 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: September 27, 2021

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Residential Tenancy Branch