



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

**Dispute Codes:** MNDCL-S, MNRL-S, FFL

### **Introduction**

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the *Act*") for:

- and a monetary order for unpaid rent, and compensation for monetary loss or money owed under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 1:40 p.m. in order to enable the tenants to call into this teleconference hearing scheduled for 1:30 pm. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord and I were the only ones who had called into this teleconference.

On January 30, 2023, the landlord was granted an order for substituted service which allowed the landlord to serve their hearing documents and evidence to each tenant by email as set out in the Substituted Service Decision. The landlord provided proof of service to show that the tenants were both served through this method on February 1, 2023. In accordance with sections 88, 89, and 90 of the *Act*, I find both tenants deemed serviced with the application and evidence on February 4, 2023, 3 days after the email was sent.

### **Issue(s) to be Decided**

Is the landlord entitled to monetary compensation for money owed or losses?

Is the landlord entitled to recover the filing fee for this application from the tenants?

### **Background and Evidence**

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

This fixed-term tenancy began November 13, 2022, and was to end on April 30, 2023. The landlord testified that on December 28, 2022, they received a call from tenant MI that the tenant were moving out on December 31, 2022. The landlord testified in the hearing that the tenants moved out on January 9, 2023, and did not pay any rent for the month of January 2023. The landlord testified in the hearing that they still hold a security deposit of \$1,250.00 as well as a furniture deposit of \$1,250.00 for this tenancy.

The landlord submitted a copy of an email dated January 9, 2023 from the tenant MI consenting to the landlord retaining a fee for cleaning. The landlord submitted an invoice in the amount of \$240.00 to support this loss.

### **Analysis**

Section 45(2) deals with a Tenant's notice in the case of a fixed term tenancy:

**45 (2)** A tenant may end a fixed term 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,

(b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and

(c) 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.

I find that the tenants did not end the tenancy in a manner that complies with the *Act*, as stated above. The landlord did not mutually agree to end this tenancy in writing, nor did the tenants obtain an order from the Residential Tenancy Branch for an early termination of this fixed term tenancy. No application for dispute resolution have been filed by the tenants. The landlord provided undisputed testimony that the tenants moved out on January 9, 2023 without paying the rent for the month of January 2023. I,

therefore, allow the landlord's monetary claim for loss of rental income for the month of January 2023 in the amount of \$2,500.00.

Section 37(2)(a) of the *Act* stipulates that when a tenant vacates a rental unit the tenant must leave the rental unit reasonably clean. I am satisfied that the tenants had moved out without cleaning the rental unit, and the tenants had provided written consent that the landlord can retain a portion of the tenants' deposit equivalent to the cost of cleaning. Accordingly, I allow the landlord a monetary order in the amount of \$240.00 for cleaning.

As the landlord was successful in their application, I am allowing the landlord to recovery the filing fee from the tenant.

In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenants' security and furniture deposit plus applicable interest in satisfaction of the monetary awards granted to the landlord. As per the RTB Online Interest Tool found at <http://www.housing.gov.bc.ca/rtb/WebTools/InterestOnDepositCalculator.html>, over the period of this tenancy, \$16.16 is payable as interest on the tenants' security and furniture deposits from November 13, 2022 until the date of this decision, May 1, 2023.

### **Conclusion**

I issue a Monetary Order in the amount of \$323.84 as set out in the table below:

| <b>Item</b>  | <b>Amount</b>   |
|--|-----------------|
| Unpaid Rent for January 2023                                       | \$2,500.00      |
| Cleaning   | 240.00          |
| Filing Fee   | 100.00          |
| Less Security & Furniture Deposit Held<br>plus applicable interest | -2516.16        |
| <b>Total Monetary Order</b>  | <b>\$323.84</b> |

The landlord is provided with this Order in the above terms and the tenants must be served with a copy of this Order as soon as possible. Should the tenants 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: May 01, 2023