



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: MNR, MND, MNDC, MNSD, FF

### Introduction

This hearing concerns an application by the landlords for a monetary order as compensation for unpaid rent and utilities / compensation for damage to the unit, site, or property / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit & the pet damage deposit / and recovery of the filing fee.

The landlords participated in the hearing and gave affirmed testimony. Despite in-person service of the application for dispute resolution and notice of hearing by a professional process server on June 7, 2012, the tenants did not appear. I find that the tenants have been served in compliance with the Act.

### Issue(s) to be Decided

Whether the landlords are entitled to any of the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, the year-long fixed term of tenancy is from January 1 to December 31, 2012. Monthly rent of \$1,100.00 is due and payable in advance on the first day of each month. A security deposit of \$550.00 and a pet damage deposit of \$550.00 were both collected. A move-in condition inspection report was completed with the participation of both parties on December 21, 2011.

By way of e-mail dated May 8, 2012, the tenants informed the landlords of their intent to vacate the unit within several days. The tenants did not provide a forwarding address. Subsequently, by e-mail dated May 10, 2012, the landlords proposed two different times for meeting at the unit in order to complete a move-out condition inspection report. However, the tenants did not respond and the landlords undertook a move-out condition inspection report in the absence of the tenants on May 13, 2012.

Upon inspection the landlords found a unit in need of considerable cleaning and repairs. Following completion of much of the work required, early in June 2012 the landlords hired an agency to find new renters. At present, the landlords' understanding is that new renters have tentatively been found effective August 1, 2012.

The tenants cancelled their post-dated rent cheque for May 2012. Accordingly, in addition to seeking compensation for unpaid rent for May, the landlords presently seek compensation for loss of rental income for June & July 2012.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Section 45 of the Act speaks to **Tenant's notice**, and provides in part as follows:

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.

Section 7 of the Act speaks to **Liability for not complying with this Act or a tenancy agreement**, as follows:

7(1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

(2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Based on the documentary evidence and the affirmed / undisputed testimony of the landlords, I find that the tenants did not end the tenancy in a manner pursuant to the statutory provisions set out above. I further find that the landlords have met the burden of proving that they undertook to mitigate their loss following the end of the tenancy.

The various aspects of the landlords' application and my findings are set out below.

\$3,300.00: unpaid rent - May / loss of rental income - June & July (3 x \$1,100.00).

\$255.00: water utilities – February to June.

\$744.50: cost of labour arising from miscellaneous cleaning, garbage removal & repairs.

\$325.73: cost of miscellaneous materials and supplies.

\$50.00: filing fee.

Based on the documentary evidence, which includes but is not limited to photographs, and the affirmed / undisputed testimony of the landlords, I find that the landlords have established entitlement to all of the compensation which is detailed above.

Total entitlement: \$4,675.23.

I order that the landlords retain the security deposit and pet damage deposits in the combined total amount of \$1,100.00, and I grant the landlords a monetary order pursuant to section 67 of the Act for the balance owed of \$3,575.23 (\$4,675.23 - \$1,100.00).

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\$1,458.91: replacement of countertop in kitchen. As the countertop has not been replaced and as the landlords have therefore not incurred the cost, this aspect of the application is hereby dismissed with leave to reapply.

\$192.00: travel time to and from the unit in order to complete repairs;

\$108.93: vehicle gas for travel as above.

I find that as the aspects of the claim identified immediately above constitute the “cost of doing business,” they are hereby dismissed.

### Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlords in the amount of **\$3,575.23**. This order may be served on the tenants, filed in the Small Claims 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: June 29, 2012.

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Residential Tenancy Branch