



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Homelife Glenayre Realty Chilliwack Ltd.  
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes      MNSD, FF

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

1. An Order to retain the security deposit - Section 38; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Landlord entitled to retain the security deposit?

Is the Landlord entitled to recovery of the filing fee?

### Background and Evidence

The tenancy started on May 1, 2013 for a fixed term ending April 30, 2014. The tenancy ended on March 31, 2014. Rent of \$1,400.00 was payable monthly and at the outset of the tenancy the Landlord collected \$700.00 as a security deposit.

The Landlord states that no written notice to end the tenancy was received from the Tenants and that the Landlord was unaware of the end of the tenancy until the Tenant's called the Landlord on March 31, 2014. The Landlord states that he was informed that the Tenants had sent an email notice to end the tenancy but the Landlord never

received this notice. The Landlord states that the Tenants were excellent Tenants and left the unit in good condition. The Landlord withdraws the claim for damages to the carpet. The Landlord states that the unit was immediately advertised on the internet at the same rental rate but that it was not rented for the next two months. The Landlord states that they restrict their claim only to the amount of the security deposit of \$700.00.

The Tenant states that they signed a written notice to end tenancy and then scanned and sent it to the Landlord by email. The Tenant states that they were unaware that this was not acceptable practice as they had previously communicated with the same agency before by this method and there were no issues.

### Analysis

Section 45 of the Act provides that 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.

As the Tenant's were under a fixed term tenancy, I find that their notice to end tenancy could not have been given for a date prior to April 30, 2014. As a result, I find that the Tenants are liable for rent to the end of the tenancy. Given the Landlord's evidence of advertising and loss of rental income to and including April 2014, I find that the Landlord has substantiated its claim to **\$700.00**. As the Landlord asked to restrict the amount to \$700.00 I make no award of the filing fee.

Conclusion

I order the Landlord to retain the security deposit plus zero interest of \$700.00 in full satisfaction of the claim.

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: July 29, 2014

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Residential Tenancy Branch