



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNRL-S, MNDL, MNDCL, FFL

### Introduction

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

- a monetary order for unpaid rent, for damage to the rental unit and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 50 minutes. The two landlords, male landlord ("landlord") and "female landlord," attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord stated that the tenant was personally served with the landlords' application for dispute resolution hearing package, regarding the unpaid rent claim only, on August 28, 2020. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was personally served with the landlords' application on August 28, 2020.

The landlord claimed that the substituted service decision, dated October 21, 2020, made by an Adjudicator ("SS decision"), the landlords' amendment to application and monetary damage claim evidence was served to the tenant on November 21, 2020, by way of email as per the SS decision. The landlord provided a copy of three emails, regarding this service. In accordance with section 71(2)(c) of the *Act* and the SS decision, I find that the tenant was deemed served with the SS decision, and the landlords' amendment and damage claim evidence on November 24, 2020, three days after the emails were sent.

Pursuant to section 64(3)(c) of the *Act*, I amend the landlords' application to replace the female landlord's surname with her new legal married name. The landlords consented to this amendment during the hearing and I find no prejudice to the tenant in making it.

### Issues to be Decided

Are the landlords entitled to a monetary order for unpaid rent, for damage to the rental unit and for compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement?

Are the landlords entitled to retain the tenant's security deposit?

Are the landlords entitled to recover the filing fee for this application?

### Background and Evidence

While I have turned my mind to the landlords' documentary evidence and the testimony of the landlords, not all details of the respective submissions and arguments are reproduced here. The relevant and important aspects of the landlords' claims and my findings are set out below.

Both parties agreed to the following facts. This tenancy began on May 1, 2020 and ended on August 31, 2020. Monthly rent in the amount of \$900.00 was payable on the first day of each month. A security deposit of \$450.00 was paid by the tenant and the landlords continue to retain this deposit. A written tenancy agreement was signed by both parties. Move-in and move-out condition inspection reports were completed for this tenancy. The move-out condition inspection report was completed by the landlords only, without the tenant present. The landlord provided the tenant with three different times to do a move-out condition inspection on August 31, 2020, one of which was given to the tenant in the RTB form "Notice of Final Opportunity to Schedule a Condition Inspection." The tenant did not provide a written forwarding address to the landlords. The landlords did not have any written permission to keep any part of the tenant's security deposit. The landlords' application to retain the tenant's security deposit was filed on August 26, 2020.

The landlords seek a monetary order of \$2,639.46, to retain the tenant's security deposit of \$450.00 against this claim, and the \$100.00 application filing fee. The landlords seek unpaid rent for August 2020 of \$900.00. The landlords also seek other damages and a future loss of rent totalling \$1,739.46.

### Analysis

Section 26 of the *Act* requires the tenant to pay rent on the date indicated in the tenancy agreement. In this case, the tenant was required to pay rent to the landlords on the first day of each month. Section 7 of the *Act* requires the tenant to compensate the landlords for any damage or loss arising from a failure to comply with the *Act*, *Regulation* or tenancy agreement.

I award the landlords \$900.00 for unpaid August 2020 rent. I find that the tenant was living at the rental unit during August 2020 and failed to pay rent to the landlords, according to her tenancy agreement, during this time.

The landlords continue to hold the tenant's security deposit of \$450.00. Over the period of this tenancy, no interest is payable on the tenant's security deposit. I allow the landlords to retain the tenant's entire security deposit of \$400.00 towards August 2020 unpaid rent, leaving a balance of \$450.00. I issue a monetary order to the landlords for \$450.00.

As the landlords were partially successful in this application, I find that they are entitled to recover the \$100.00 filing fee from the tenant.

The remainder of the landlords' application of \$1,739.46 for damages and a future loss of rent is dismissed with leave to reapply. The landlords amended their application to add these monetary claims approximately two weeks prior to this hearing. The landlords sent in evidence to the RTB, which they claim was uploaded to the online RTB website by Service BC, not the landlords. During the hearing, the evidence in front of the landlords was full page photographs and receipts/invoices. The same evidence on the RTB website that I was viewing, was tiny thumbnails that were blurry and difficult to see, with receipts missing. However, the landlords could not access the RTB website to see the same evidence that I was looking at during the hearing. Because I was unable to properly see or review this evidence, it was central and important to the landlords' damage claims, and this may have been due to a Service BC government administrative error in uploading the evidence online, which is out of the landlords' control, I find that the landlords are entitled to reapply for these claims.

### Conclusion

I order the landlords to retain the tenant's entire security deposit of \$450.00.

I issue a monetary order in the landlords' favour in the amount of \$550.00 against the tenant. The tenant must be served with this Order as soon as possible. Should the tenant 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.

The remainder of the landlords' application for \$1,739.46 for damages and losses is dismissed with leave to reapply.

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: December 10, 2020

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Residential Tenancy Branch