



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## Decision

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

## Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent, for compensation for damage or loss under the Act or tenancy agreement and to recover the filing fee for this proceeding. The Landlord also applied to keep all or part of a security deposit. The Tenant applied for a Monetary Order for the return of her security deposit and to recover the filing fee for this proceeding.

## Issue(s) to be Decided

1. Are there arrears of rent and if so, how much?
2. Is the Landlord entitled to compensation and if so, how much?
3. Is the Landlord entitled to keep all or part of the Tenant's security deposit?

## Background and Evidence

On November 15, 2008, the Parties entered into a verbal agreement whereby the Tenant would rent a one room bachelor suite with shared bathroom facilities (with another bachelor suite) on a month to month basis starting on December 1, 2008. The Tenant paid a security deposit of 325.00 on November 15, 2008.

On December 1, 2008, the Tenant advised the Landlord that she had reconciled with her boyfriend and that she also wanted him to occupy the suite with her. The Landlord claimed that he did not have an issue with that on a short term basis, provided his other (longer term) tenant did not object as they shared bathroom facilities. The Landlord said his other tenant did not want to share bathroom facilities with 2 other people and therefore the Landlord advised the Tenant on December 1, 2008 that only she would be permitted to occupy the unit as originally agreed.

On December 2, 2008, the Tenant left a letter in the Landlord's mail box advising him that she would not be moving in. The Tenant provided her forwarding address and requested that the Landlord return her security deposit. The Tenant argued that the Landlord was not entitled to restrict her from having guests in the rental unit but

admitted that she intended her boyfriend to reside there and that she had entered into the tenancy agreement on the basis that there would be only one occupant residing in the rental unit.

The Landlord claimed he immediately placed an advertisement in the local newspaper for a period of 1 week but was not able to find another tenant to occupy the rental unit. As a result, he contacted an earlier applicant (who he had rejected because she had a cat) and was able to re-rent the suite for December 15, 2008. Consequently, the Landlord sought loss of rental income for ½ of December, 2008 as well as his advertising expenses.

### Analysis

I find that the parties entered into a verbal agreement on November 15, 2008 to create a month to month tenancy starting December 1, 2008. I find that the tenancy started on December 1, 2008 and that the Tenant decided to terminate the tenancy agreement on December 2, 2008 when the Landlord would not agree to allow 2 occupants to reside in the rental unit.

Section 45 of the Act says a Tenant must give a Landlord one clear month's notice that they are ending a periodic (or month to month) tenancy. As a result, the earliest the Tenant could have ended the tenancy would have been January 31, 2009. Section 7 of the Act also says that if a Tenant contravenes the Act (by failing to give the proper notice) and a Landlord suffers a loss (of rental income) as a result, the Landlord may recover any loss of rental income from the Tenant. As a result, the Landlord is entitled to recover \$325.00 representing his loss of rental income for December 2008.

I find that the Landlord is not entitled to recover advertising expenses as he would have incurred them even if the Tenant had given him proper notice. Consequently, that part of the Landlord's claim is dismissed. As the Landlord has been successful in this matter he is entitled to recover his \$50.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4), 62(3) and 72 of the Act to keep the Tenant's security deposit plus accrued interest in partial satisfaction of the damage award. The Landlord will receive a monetary order for the balance owing as follows:

December 2008 rent:	\$325.00
Filing fee:	<u>\$50.00</u>
Subtotal:	\$375.00
Less: Security deposit:	(\$325.00)
Accrued interest:	<u>(\$0.63)</u>
Balance Owing:	\$49.37

### Conclusion

The Tenant's application is dismissed. A monetary order in the amount of **\$49.37** has been issued to the Landlord and a copy of it must be served on the Tenant. If the amount is not paid by the Tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia and enforced as an order of that court.