

# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## Decision

### **Dispute Codes:**

MNDC

MND

FF

MNSD

MNR

OPR

### **Introduction**

I have been delegated the authority under Section 9.1 of the *Residential Tenancy Act* (the “Act”) to hear this matter and decide the issues.

I reviewed the evidence on the case file prior to the Hearing. The Landlord gave affirmed evidence and this matter proceeded on its merits.

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

- (1) Is the Landlord entitled to a monetary order for loss of rent from February 1, 2008 to May 25, 2008?
- (2) Is the Landlord entitled to recover the cost of the filing fee for this application from the Tenant?

### **Preliminary Matters**

The Landlord withdrew her claims: for damage to the property (\$140.00 for replacement refrigerator, \$48.00 for replacement mattress cover and pillow cases, \$200.00 for replacement futon); for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement (loss of rent from May 1, 2008 to May 25, 2008); and for an order of possession, as the Tenant vacated the property on May 5, 2008. She is

proceeding with her claims: for unpaid rent for the months of February, March and April, 2008; to keep all of the security deposit; and to recover the filing fee from the Tenant for the cost of this application.

### **Background and Evidence**

#### **Landlord's evidence**

The Landlord testified that she served the Tenant in person with her Application for Dispute Resolution and hearing package on December 20, 2008, at 6:00 p.m. at his new residence.

The Landlord testified that the monthly rent was \$800.00 and that the tenant paid a security deposit in the amount of \$400.00 on October 1, 2007. The Landlord testified that the Tenant moved out of the rental unit on May 5, 2008. The Landlord was able to re-rent the rental unit on May 25, 2008. Monthly rent for the rental unit was \$800.00 per month. The Landlord testified that the Tenant is in arrears for payment of rent for the months of February, March and April, 2008. The Landlord testified that the Tenant paid a \$100.00 deposit for keys, which he returned, so she is deducting that amount from her \$2,400.00 claim for unpaid rent, for a balance of \$2,300.00.

### **Analysis**

I accept the Landlord's testimony that she served the Tenant with notice of this application and hearing particulars on December 20, 2008. The Tenant, although duly served did not attend the hearing and the hearing proceeded in his absence.

The Landlord has established a claim for loss of rent in the amount of \$2,300.00. The Landlord has been successful in her application and is entitled to recover the \$50.00 filing fee from the Tenant.

Pursuant to Section 72 of the Act, the Landlord may apply the security deposit of \$400.00, together with accrued interest of \$7.53, to the amount owing to the Landlord.

The Landlord has established a monetary order in the amount of \$1,942.47, calculated as follows:

Loss of rent	\$2,400.00
Less return of key deposit	<\$100.00>
Recovery of filing fee	\$50.00
Less security deposit and accrued interest	<u>&lt;\$407.53&gt;</u>
Balance owing to the Landlord	\$1,942.47
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### **Conclusion**

I grant the Landlord a monetary order under section 67 of the Act for \$1,942.47. This order must be served on the Tenant and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an order of that Court.

February 26, 2009

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