



# Dispute Resolution Services

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

## Decision

Dispute Codes: OPR, MNR, MNSD, FF

## Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent as well as to recover the filing fee for this proceeding. The Landlord also applied to keep all or part of a security deposit. At the beginning of the hearing, the Landlord abandoned her application for an Order of Possession.

The Landlord served the Tenant by registered mail on December 22, 2008 with a copy of the Application and Notice of Hearing in this matter which, according to the Canada Post on-line tracking system, he received on December 27, 2008. I find that the Tenant was properly served pursuant to s. 89 of the Act with the Notice of Hearing and the hearing proceeded in his absence.

## Issue(s) to be Decided

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

## Background and Evidence

This tenancy started sometime prior to May 1, 2008 when the current Landlord took over the rental property. The tenancy ended on or about October 31, 2008. Rent was \$700.00 per month payable on the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$350.00 at the beginning of the tenancy. The Landlord said that the Tenant did not pay rent for October, 2008 and that amount is still in arrears. The Landlord also sought to recover a late payment fee of \$20.00. The Landlord claimed there was a written tenancy agreement that provided for the payment of this charge, however the Tenant had not signed the agreement.

## Analysis

I find that the Landlord is entitled to recover rent arrears for October, 2008 in the amount of \$700.00. Section 7 of the Regulations to the Act permits a Landlord to collect

a late payment fee of no more than \$25.00 provided that term is contained in a written tenancy agreement. I find that there is no written tenancy agreement and therefore, the Landlord's application for a \$20.00 late fee is dismissed. The Landlord is entitled to recover her \$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 payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as follows:

Rent arrears, October 2008:	\$700.00
Filing fee:	<u>\$50.00</u>
Subtotal:	\$750.00
Less: Security Deposit:	(\$350.00)
Accrued Interest:	<u>(\$3.51)</u>
BALANCE OWING:	\$396.49

### Conclusion

A Monetary Order in the amount of **\$396.49** has been issued to the Landlord and a copy of it must be served on the Tenant. If the amount of the Order 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.