



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## Decision

### **Dispute Codes:**

OPR, MNR, FF

### **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.

The Landlords gave affirmed evidence and this matter proceeded on its merits.

### **Preliminary Matter**

At the onset of the Hearing, the Landlord testified that the Tenants moved out of the rental unit on March 10, 2009. Therefore the Landlord withdrew his application for an order of possession.

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

This Application was originally made by way of Direct Request proceeding on February 26, 2009. The Dispute Resolution Officer found that the Tenants had been served with the Dispute Resolution Direct Request Proceeding documents, but failed to establish that the Tenants were served with the 10 day Notice to End Tenancy. This application was reconvened by way of conference call to determine the details of service of the 10 day Notice to End Tenancy.

This is the Landlord’s application for a Monetary Order for unpaid rent, to retain the security deposit, and recover the filing fee from the Tenants.

### **Background and Evidence**

### Landlord's evidence

The Landlord NB testified that she personally served the Tenants with the Notice to End Tenancy on February 11, 2009, by leaving a copy of the Notice with the Tenant ML at the Tenants' residence.

The Landlord NB gave the following evidence:

- There is a written tenancy agreement, a copy of which the Landlord provided into evidence. The tenancy started on September 1, 2007. The monthly rent was \$1,300.00, due on the 1<sup>st</sup> day of the month. The Tenants paid a security deposit in the amount of \$650.00 on August 14, 2007.
- The Tenants have not paid anything towards arrears of rent for the month of February, 2009.
- The Landlord NB testified that the Tenants caused damage to the rental unit beyond normal wear and tear, left a large amount of garbage and debris, and did not clean the rental unit when they vacated the rental unit. The Landlord NB testified that they are still affecting repairs to the rental unit and have shown the rental unit to prospective tenants, but people are not prepared to rent the unit in its current state. The Landlord provided 40 colour photographs into evidence. These photographs show considerable damage to the unit, including: torn and dirty carpets; damaged kitchen counter tops; broken cupboards and kitchen cabinets; broken closet doors; dirty walls, floors and appliances; holes in walls; a broken window; garbage in the house, yard, garage and shed; a damaged bathroom door and door frame; broken air exchange; broken baseboards; and damaged stairs. The Landlord asked for loss of rent for the month of March, 2009.

### Analysis

I accept the Landlord NB's affirmed testimony that she personally served the Tenants

with the Notice to End Tenancy on February 11, 2009, by leaving a copy of the Notice with the Tenant ML at the Tenants' residence. The effective date of the end of tenancy is therefore February 21, 2009. The Tenants did not make an application to dispute the Notice to End Tenancy within 5 days of being served with the Notice and are therefore conclusively presumed to have accepted that the tenancy ended on February 21, 2009. The Tenants did not vacate the rental unit until March 10, 2009. Based on the oral testimony and evidence provided by the Landlord, I am satisfied that the Tenants left the rental unit in a state not suitable for occupancy by another tenant and I allow the Landlord's application for loss of rent for the month of March, 2009.

The Landlord has established its monetary claim for rent arrears for February, 2009, in the amount of \$1,300.00, and for loss of March, 2009, rent in the amount of \$1,300.00. Pursuant to Section 72 of the Act, the Landlord may apply the security deposit, together with any accrued interest thereon, towards satisfaction of this debt.

The Landlord has been successful in its application and is entitled to recover the filing fee in the amount of \$50.00 from the Tenants.

I therefore make a monetary order in favour of the Landlord the amount of \$1,986.45, calculated as follows:

Rent arrears for February, 2009	\$1,300.00
Loss of rent for March, 2009:	\$1,300.00
Recovery of filing fee	\$50.00
Less security deposit and accrued interest of \$13.55	<u>&lt;\$663.55&gt;</u>
TOTAL	\$1,986.45
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### **Conclusion**

I grant the Landlord a monetary order in the amount of \$1,986.45 against the Tenants.

This order must be served on the Tenants and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an order of that Court.

March 31, 2009

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