



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## Decision

### Dispute Codes:

OPR, MNR, MNSD, MNDC, FF

### Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, a monetary Order for money owed or compensation for damage or loss, to retain all or part of the security deposit, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution. At the hearing the Property Manager withdrew the application for an Order of Possession, as the rental unit has been vacated.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

### Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to financial compensation for unpaid rent for February of 2009, for a late fee, and for loss of revenue from March of 2009; to keep all or part of the security deposit; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The Property Manager and the Tenant agree that this tenancy began on October 01, 2005; that there was a written tenancy agreement; that the Tenant was required to pay monthly rent of \$850.00; and that the Tenant paid a security deposit of \$385.00 on September 07, 2005.

The Resident Manager stated that he posted a 10 day Notice to End Tenancy for non-payment of rent, which had an effective date of February 15, 2009 on the front door of the rental unit on February 02, 2009. The Tenant stated that she located the Notice

posted on her door on February 07, 2009. The Notice indicated that the Tenant is presumed to have accepted that the tenancy is ending and that the Tenant must move out of the rental unit by the date set out in the Notice unless the Tenant pays the outstanding rent or files an Application for Dispute Resolution within five days of the date they are deemed to have received the Notice.

The Tenant stated that she had been living with a roommate, who was not named on the tenancy agreement. She stated that sometime near the middle of January of 2009 she told the Resident Manager that she would be vacating the rental unit at the end of February, but she did not know if her roommate would also be vacating the rental unit. She stated that the Resident Manager did not advise her that she need to provide her notice to end the tenancy in writing, and she did not know that she was required to give that notice in writing.

The Tenant stated that she did not live at the rental unit during the month of February. She stated that she returned to the rental unit on February 07, 2008, at which time she learned that her roommate had vacated the rental unit. She stated that she returned her keys to the Landlord on February 23, 2009.

The Resident Manager stated that sometime near the beginning of February the Tenant verbally advised him that she would be vacating the rental unit at the end of February, although she did not know whether her roommate would be continuing the tenancy. He stated that he did advise the Tenant she needed to provide written notice of her intent to vacate the rental unit, however written notice was not forthcoming.

The Property Manager stated that the rental unit was advertised on the internet and in the Times Colonist on February 23, 2009, and that they were able to find a new tenant for the rental unit for March 07, 2009.

The Property Manager and the Tenant agree that \$335.00 in rent has not been paid for February, although the Tenant contends that her roommate is liable for the outstanding rent. The Landlord is seeking compensation for this unpaid rent.

The Landlord is also seeking compensation, in the amount of \$25.00, as the Tenant did not pay all of the rent for February on the date that it was due. The Landlord submitted a copy of the tenancy agreement, in which the Tenant agreed to pay a late fee of \$25.00 whenever she is late paying her rent.

The Landlord is also seeking compensation, in the amount of \$35.48, for lost revenue between March 01, 2009 and March 06, 2009. The Landlord stated that \$35.48 represents the prorated rent for days in March that the rental unit remained vacant. The prorated rent for this period, by my calculation, is actually \$164.46 at a rate of \$27.41 per day. The Property Manager stated that they are only seeking compensation of

\$35.48 because the new tenant is paying higher monthly rent, and they have only suffered a financial loss in the amount of \$35.48.

The Landlord contends they are entitled to compensation for lost revenue for the period between March 01, 2009 and March 06, 2009 because the Tenant did not provide proper notice of her intent to vacate the rental unit at the end of February, which prevented the Landlord from finding a new tenant for March 01, 2009. The Tenant contends that she should not be liable for any rent for March, as she did not know she was required to give written notice of her intent to vacate.

### Analysis

The Tenant agrees that rent in the amount of \$355.00 has not been paid for the month of February, although she argues that her roommate is responsible for the unpaid rent. I find that the roommate and the Tenant were co-tenants. Co-tenants are two or more tenants who rent the same property under the same tenancy agreement. Co-tenants are jointly responsible for meeting the terms of the tenancy agreement and Co-tenants are jointly and severally liable for any debts or damages relating to the tenancy. This means that a landlord can recover the full amount of rent, utilities or any damages from all or any one of the tenants. The responsibility falls to the tenants to apportion among themselves the amount owing to the landlord. On this basis, I find that the Landlord is entitled to compensation, in the amount of \$355.00, from the Tenant, who is named in this Application for Dispute Resolution.

I find that the Tenant did agree, in writing, to pay a fee of \$25.00 whenever the rent is not paid on time. As the rent was not paid when it was due on February 01, 2009, I find that the Landlord is entitled to a late fee of \$25.00 for that month.

I find that the Landlord's application has merit, and I find that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Section 45(2) of the Act stipulates, in part, that a tenant may end a tenancy by giving the landlord written notice that is not earlier than one month after the date the landlord receives the notice and is the day before the day that rent is due. I find that the Tenant did not comply with the Act when she did not provide the Landlord with written notice of her intent to vacate the rental unit on February 28, 2009. I find that the Tenant's actions prevented the Landlord from finding new tenants for March 01, 2009, as the Landlord did not have reasonable notice that the rental unit would be vacated by that date. I find that the Landlord is therefore entitled to compensation for loss of revenue between the period of March 01, 2009 and March 07, 2009. In these circumstances, the Landlord is only seeking compensation in the amount of \$35.48, which is less than the prorated rent

for that period. I find this request reasonable, and I therefore find that the Tenant owes the Landlord \$35.48 for loss of revenue.

I find that the Landlord is entitled to retain the Tenant's security deposit plus interest, in the amount of \$398.62, in partial satisfaction of the monetary claim.

### Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$465.48, which is comprised of \$355.00 in unpaid rent, \$35.48 as compensation for loss of revenue for March of 2009, a \$25.00 late fee, and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. The Landlord will be retaining the Tenant's security deposit plus interest, in the amount of \$398.62, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$66.86. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.