



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNR, MNSD, FF,

### Introduction

This matter dealt with an application by the landlord for a Monetary Order for unpaid rent as well as to keep all or part of a security deposit in partial payment of unpaid rent and to recover the filing fee for this proceeding.

Service of the hearing documents was done in accordance with section 89 of the *Act*, They were served in person to the tenants' by the landlord on April 10, 2009.

The landlord appeared, gave her testimony and was provided the opportunity to present her evidence orally and in written and documentary form and make submissions to me. The tenants, despite being served a notice of the hearing, did not attend.

### Issues(s) to be Decided

- Are there arrears of rent and utilities and if so, how much?
- Is the Landlord entitled to keep all or part of the security deposit and interest?
- Is the Landlord entitled to recover filing fees from the tenant for the cost of the application?

### Background and Evidence

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This tenancy started on October 01, 2008 and ended on April 13, 2009. The tenants had a three year lease agreement with the landlord. Rent was \$1,300.00 per month payable on the 1<sup>st</sup> day of each month. The Tenants paid a security deposit of \$200.00. Of this \$100 was paid on October 05, 2008 and \$100 on November 05, 2008.

On February 14, 2009, the Landlords served the Tenants with a 10 Day Notice to End Tenancy for unpaid rent. At this time the tenants paid their rent for February and also paid \$475 towards their rent for March. The tenants were late again paying the rest of their rent for March and have not paid any rent for April. On April 01, 2009 the landlord served the tenants with another 10 Day Notice to End Tenancy for unpaid rent. They were asked to leave the rental unit on April 11, 2009. The landlord stated that she gave them a two day extension as they were having trouble with removals. On April 13, 2009 the tenants moved their furniture out of the rental unit but left behind a lot of personal items and garbage.

The landlord states that she did employ the tenant as a cook in her restaurant. She terminated this employment at the end of January 2009. The landlord states that they had been very good tenants up to then and kept the place immaculate but after this time communication between them broke down and despite giving them 24 hours written notice to access the rental unit during April she was refused entry.

The landlord filed an amendment to her evidence to recover damages. As this document was filed late and was not served to the tenants within the time frame for service of documents it was not permitted to be heard today. As this is a substantial amendment to her claim she was advised to file a separate application.

## Analysis

In the absence of any evidence from the Tenant, I find that the Landlord is entitled to recover the outstanding rent arrears for March 2009 of \$825.00 and a loss of rental income for April, 2009 of the amount of \$1,300.00. As the Landlord has been successful in this matter, she is also entitled to recover her \$50.00 filing fee for this application.

I order the Landlord pursuant to section 38(4) of the *Act* to keep the Tenant's security deposit in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as follows:

March 2009 rent:	\$825.00
April 2009 Loss of rent:	\$1,300.00
Filing fee:	<u>\$50.00</u>
Subtotal:	\$2,175.00
Less: Security deposit:	(\$200.00)
Accrued interest:	<u>(\$0.59)</u>
Balance Owing:	<b>\$1,974.41</b>

## Conclusion

A Monetary Order in the amount of **\$1,974.41** has been issued to the landlord and a copy of the Order must be served on the tenants. If the amount is not paid by the Tenants, the Order may be filed in the Provincial (Small Claims) Court of British Columbia and enforced as an order of that court.



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This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: April 22, 2009.

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Dispute Resolution Officer