



# **Dispute Resolution Services**

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

## **DECISION**

**Dispute Codes:** MNSD, MNDC and FF

### **Introduction**

This application was brought by the landlord seeking a Monetary Order for loss of rent and recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

Despite being served with the Notice of Hearing sent by mail on February 12, 2009, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

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

This matter requires a decision on whether the landlord is entitled to the loss of rent, authorization to retain the security deposit in set off, and recovery of the filing fee for this proceeding from the tenant.

### **Background and Evidence**

This tenancy ran from June 1, 2005 to January 31, 2009. Rent was \$777.75 per month and the landlords hold a security deposit of \$375 paid on or about June 1, 2005.

During the hearing, the landlord gave evidence that the loss of rent resulted when the tenant gave notice on January 17, 2009 to end the tenancy on January 31, 2009.

Because of the late notice, the landlord was unable to find a new tenant to move in until March 1, 2009 and she claims, therefore, the loss of rent for February.

### **Analysis**

Section 45 of the *Act* requires that a tenant giving notice must give at least one full month's notice following the next rent due date following the notice.

In this instance, therefore, the tenant's notice given on January 17, 2009 would not have been effective until February 28, 2009.

Accordingly, I find that the landlord is entitled to recover the loss of rent for February, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off as follows:

February rent	\$777.75
Filing fee	50.00
Sub total	\$827.75
Less retained security deposits	- 375.00
Less interest (April 1, 2006 to date)	- 13.28
<b>TOTAL</b>	<b>\$439.47</b>

Thus, the landlords are authorized to retain the security deposit and interest in set off and, in addition, the landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia, in the amount of \$439.47, for service on the tenant.

April 21, 2009.

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Dispute Resolution Officer