



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION AND REASONS

### Dispute Codes

MNSD, MNDC, & FF

### Introduction

This hearing dealt with an application by the landlord seeking compensation for loss or damage under the *Act* due to a breach of contract by the tenant. The landlord also seeks to retain the tenant's security deposit plus interest in partial satisfaction of this claim.

Although the tenant was served with notice of this hearing by registered mail on 12, 2009, he did not appear for the hearing. The landlord stated in the hearing that he called the service line through Canada Post and through the tracking system he received confirmation that the registered package was successfully delivered to the tenant. I accept the evidence of the landlord and pursuant to section 90(a) of the *Act* I deem the tenant as having been served on the fifth day after the package was sent. I proceeded with the hearing in the tenant's absence.

### Issues to be Determined

Has the landlord established a monetary claim due to loss of rental revenue due to the breach of the *Act* by the tenant? Can the landlord retain the tenant's security deposit plus interest in partial satisfaction of this claim?

### Background and Evidence

This tenancy was renewed with a new contract effective November 1, 2008 and ending effective October 31, 2009 for the monthly rent of \$495.00. The tenant originally paid a security deposit of \$242.50 on November 5, 2007.

The tenant gave written notice to end the tenancy on January 19, 2009 and vacated effective January 31, 2009. The landlord states that they were successful in finding a new tenant as of March 1, 2009; however, lost the revenue for February 2009. The landlord is seeking damages for this loss in the amount of \$495.00.

### Analysis

Pursuant to section 45 of the *Act* a tenant may end a fixed term tenancy by providing at least 30 days notice the day before the date that the rent is due. A tenant can be found responsible for any loss the landlord experiences due to loss of rental revenue for the entire term remaining of the fixed term tenancy. In the circumstances before me the landlord was successful in mitigating any further loss of revenue beyond February 2009.

I find that the tenant failed to provide sufficient notice to end this fixed term tenancy and is liable for the landlord's loss of \$495.00 for the month of February 2009. I also grant the landlord's request to recover the \$50.00 filing fee paid for this application from the tenant for a total monetary claim of \$545.00. From this sum I Order that the landlord may retain the tenant's security deposit plus interest of \$246.71 in partial satisfaction of this claim.

I grant the landlord a monetary Order for the remaining balance owed of **\$298.29**. This Order may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

### Conclusion

The landlord's application is granted and a monetary award issued due to the tenant's failure to provide the landlord proper notice to end the tenancy.

Dated April 22, 2009.

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Dispute Resolution Officer