



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## Decision

**Dispute Codes:** 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.

I reviewed the evidence provided by the Landlord prior to the Hearing. The Landlord gave affirmed evidence and this matter proceeded on its merits.

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

This is the Landlord’s application for a Monetary Order for unpaid rent and to recover the filing fee for the cost of the application from the Tenant.

### **Background and Evidence**

#### Landlord’s testimony

The Landlord testified that she served the Tenant with the Notice to End Tenancy for Unpaid Rent or Utilities by posting a copy of the Notice on the Tenant’s door at the rental unit.

The Landlord testified that she mailed the Tenant the Application for Dispute Resolution and hearing package on March 12, 2009, by priority courier, to the address the Tenant provided as a forwarding address. The Landlord testified that she confirmed by

performing an on-line search that the documents were successfully delivered to the Tenant on March 13, 2009, at 11:59 a.m.

The Landlord testified that:

- The tenancy started on September 1, 2008. The monthly rent is \$750.00, due on the last day of the month. The Tenant paid a security deposit to the Landlord in the amount of \$375.00 on September 1, 2008.
- The Tenant moved out of the rental unit on February 28, 2009.
- The Tenant has not paid rent for the months of January and February, 2009.
- The Landlord re-rented the rental unit on April 1, 2009.

### **Analysis**

I accept the Landlord's testimony that the Tenant was duly served with the Notice to End Tenancy. Service in this manner is deemed to be effective on the 3<sup>rd</sup> day after posting the notice. The Tenant did not pay the rental arrears or dispute the Notice to End Tenancy within 5 days of being served with the Notice to End Tenancy. Pursuant to Section 47(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. In this case, service was affected on February 21, 2009, and the effective end to the tenancy was therefore March 3, 2009.

I accept the Landlord's testimony that she sent the Tenant the Notice of Hearing Package and Application for Dispute Resolution, by priority courier to the Tenant's forwarding address, on March 12, 2009, and that the package was delivered to the Tenant on March 13, 2009. Section 89 of the Act sets out the methods by which Tenants can be served with Notice of Hearing documents. Although this method is not listed in the service provisions under Section 89, pursuant to Section 71(2)(c), I find that the Tenant was sufficiently served on March 13, 2009 for the purposes of this Act. In spite of being served with the document, the Tenant did not appear at today's Hearing and the Hearing proceeded in his absence.

Based on the testimony of the Landlord and the absence of any evidence to the contrary from the Tenant, the Landlord has established the Landlord's monetary claim for arrears in the amount of \$1,500.00.

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

Pursuant to Section 72 of the Act, the Landlord may deduct the security deposit, together with any accrued interest, in partial satisfaction of her monetary claim.

The Landlord has established a monetary order, as follows:

Rent arrears for January, 2009	\$750.00
Rent arrears for February, 2009	\$750.00
Recovery of the filing fee	\$50.00
Less security deposit and interest of \$1.88	<u>&lt;\$376.88&gt;</u>
TOTAL amount due to Landlord after set off	\$1,173.12
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### **Conclusion**

Pursuant to Section 67 of the Act, I hereby grant the Landlord a Monetary Order in the amount of \$1,173.12 against the Tenant. This Order must be served on the Tenant and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an Order of that Court.

June 8, 2009

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