



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### Dispute Codes:

**OP, MNR, FF**

### Preliminary Matters

The tenants made application for dispute resolution and were scheduled to attend this hearing as part of their cross-hearing application. On October 15, 2009 the tenant's submitted a notice to the Residential Tenancy Branch cancelling their hearing.

The landlord testified that he now has possession of the rental unit and that the tenants have returned the keys; therefore an Order of possession is not required.

### Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for a monetary Order for unpaid rent and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that copies of the Application for Dispute Resolution and Notice of Hearing were personally served to the male tenant on September 3, 2009 at the tenant's place of work at approximately 10:00 or 11:00 am. The landlord testified that the female tenant was not served with notice of this hearing.

These documents are deemed to have been served to the male tenant, in accordance with section 89 of the *Act*, however the tenant did not appear at the hearing. As the female tenant has not been served with notice of this hearing the monetary claim against her may not proceed and is dismissed without leave to reapply.

### Issue(s) to be Decided

Is the landlord entitled to a monetary Order for unpaid rent?

Is the landlord entitled to filing fee costs?

## Background and Evidence

This tenancy commenced on September 1, 2009. The tenancy agreement requires the tenants to pay monthly rent of \$900.00. The tenants paid a security deposit of \$200.00 on September 1, 2008. The landlord testified that the tenants moved on October 17, 2009. The landlord testified that the following rent payments have been made:

|                   | Unpaid   | Paid     |
|-------------------|----------|----------|
| January 2009      | 900.00   |          |
| January 31, 2009  |          | 400.00   |
| February 1, 2009  | 900.00   |          |
| February 14, 2009 | 900.00   |          |
| March 1, 2009     | 900.00   |          |
| April 1, 2009     | 900.00   |          |
| May 1, 2009       |          | 300.00   |
| June 1, 2009      | 900.00   |          |
| July 1, 2009      |          | 300.00   |
| August 1, 2009    | 900.00   |          |
| September 1, 2009 | 900.00   |          |
| October 1, 2009   | 900.00   |          |
| Total paid        |          | 1,000.00 |
| Total owed        | 9,900.00 |          |
| Arrears           | 8,900.00 |          |

The landlord stated that the tenants owed \$8,900.00 in rent as detailed above.

## Analysis

In the absence of evidence to the contrary, I find that the tenants has not paid rent in the amount of \$8,900.00 between December 2008 and October 2009 and that the landlord is entitled to compensation in that amount.

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.

The landlord has not applied to retain the deposit paid by the tenant, in partial satisfaction of the rent owed. However, section 72 of the Act allows a dispute resolution



# Dispute Resolution Services

Page: 3

Residential Tenancy Branch  
Ministry of Housing and Social Development

officer to order that money owed by a tenant to the landlord may be deducted from any security deposit or pet damage deposit due to the tenant. Therefore, I find that the landlord is entitled to retain the tenant's security deposit plus interest, in the amount of **\$201.00** in partial satisfaction of the monetary claim.

## Conclusion

I find that the landlord has established a monetary claim, in the amount of \$8,950.00, which is comprised of unpaid rent and the \$50.00 filing fee. The landlord will be retaining the tenant's security deposit plus interest, in the amount of \$201.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the landlord a monetary Order for the balance of **\$8,749.00**. 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.

The landlord no longer requires an Order of possession.

The tenants have cancelled their cross-application hearing and did not attend this hearing.

The landlord's claim for a monetary Order against the female tenant is dismissed without leave to reapply as only the male tenant was served with notice of this hearing.

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: October 21, 2009.

---

Dispute Resolution Officer