



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **Decision**

**Dispute Codes:** MNR, FF

## **Introduction**

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

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**

- (1) Is the Landlord entitled to a Monetary Order for unpaid rent for the month of January, 2009?
- (2) Is the Landlord entitled to recover the filing fee from the Tenant?

## **Background and Evidence**

The Landlord testified that she mailed the Tenant the Notice of Hearing documents, by registered mail, to the Tenant's residence on August 10, 2009. When asked how the Landlord knew the Tenant's current address, the Landlord testified that a friend of hers knows where the Tenant is now residing. The Landlord testified that the Tenant is known to the police and that the police also verified the Tenant's current address and phone number. The Landlord's friend called the phone number and the Tenant answered. The Landlord provided the registered mail receipt and tracking number for the Notice of Hearing documents. The Landlord testified that the registered mail documents were returned to the Landlord, unclaimed.

The Landlord testified that the tenancy started on November 4, 2008. There was a written tenancy agreement between the parties, which was a 6 month lease, expiring on April 30, 2009. Monthly rent was \$1,500.00 due on the first day of each month. The Tenant paid a security deposit in the amount of \$750.00 on October 13, 2008. The Tenant provided the Landlord with post-dated cheques for the term of the tenancy. The Landlord entered a copy of the tenancy agreement into evidence.

The Landlord testified that she left for Mexico on December 27, 2008 and had an agent acting for her while she was away. The Landlord returned from Mexico on May 20, 2009.

The Landlord asked to amend her application, to include the name of her agent as a co-applicant.

The Landlord testified that the Tenant's rent cheque for January, 2009, was returned NSF. The Landlord provided a copy of the NSF cheque into evidence. The Landlord's agent issued an undisputed Notice to End Tenancy and the Tenant vacated the rental unit on January 31, 2009. The Landlord was able to re-rent the rental unit in mid February.

The Landlord asked for a Monetary Order for unpaid rent for the month of January, 2009.

### **Analysis**

Based on the testimony of the Landlord, pursuant to the provisions of Section 71(2)(b) of the Act, I am satisfied that Notice of Hearing documents were sufficiently served for the purposes of this Act. Service by way of registered mail is deemed to be effected 5 days after mailing the documents.

The Landlord has proven her claim for unpaid rent for the month of January, 2009, in the amount of \$1,500.00. Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit and accrued interest towards partial satisfaction of her claim. Interest has accrued in the amount of \$2.46.

I grant the Landlord's application to amend the Application to include the name of the Landlord's agent. The Landlord's agent signed the tenancy agreement with the Tenant and I see no prejudice to the Tenant in amending the application.

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

I hereby provide the Landlord and her agent with a Monetary Order, calculated as follows:

Unpaid rent for January, 2009	\$1,500.00
Recovery of the filing fee	\$50.00
Less security deposit and accrued interest	<u>-\$752.46</u>
TOTAL after set-off	\$797.94

### **Conclusion**

I grant the Landlord a Monetary Order against the Tenant in the amount of \$797.94. 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

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.

December 9, 2009

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Date of Decision

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