



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### Dispute Codes:

**MNR, MNSD, MNDC, FF**

### Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an order of possession, compensation for unpaid rent, loss of rent revenue to retain all or part of the security deposit and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony stated that on November 18, 2009 copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenant by registered mail. A Canada Post tracking number and delivery receipt was provided as evidence of service.

These documents are deemed to have been served in accordance with section 89 of the Act; however the Tenant did not appear at the hearing.

### Preliminary Matter

At the start of the hearing the landlord testified that the tenant moved out of the rental unit on December 1, 2009; therefore the request for an order of possession was withdrawn.

### Issue(s) to be Decided

Is the landlord entitled to compensation for unpaid rent and rent revenue?

Is the landlord entitled to retain the deposit paid in partial satisfaction of the monetary claim?

Is the landlord entitled to filing fee costs?

### Background and Evidence

The tenancy commenced on August 1, 2006, and a deposit in the sum of \$325.00 was paid on that date. Rent was \$650.00 per month, due on the first day of the month. The landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent which had an effective date of November 21, 2009.

The landlord stated that the tenant sent her an email stating he would move out on December 1, 2009. The landlord stated she had to apply for an order of possession to ensure the tenant vacated.

The landlord testified that the tenant failed to pay \$150.00 of October rent, that he did not pay November rent and that she was not able to obtain a new tenant for December 1 as the tenant left the unit in an unclean state and that she had no choice but to request an order .

### Analysis

In the absence of evidence to the contrary, I find that the tenant has not paid rent in the amount of \$1,300.00 for October and November 2009, and that the landlord is entitled to compensation in that amount. I find that the landlord is entitled to loss of rent revenue for December, 2009, as the tenant failed to vacate by the effective date of the notice and did not provide the landlord with ample time to mitigate the loss of December rent.

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.

I find that the landlord is entitled to retain the tenant's security deposit plus interest, in the amount of \$335.54, in partial satisfaction of the monetary claim.

### Conclusion

I find that the landlord has established a monetary claim, in the amount of \$1,500.00, which is comprised of \$1,300.00 in unpaid rent, \$650.00 in loss of rent revenue and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

The landlord will be retaining the tenant's security deposit plus interest, in the amount of \$335.54, in partial satisfaction of the monetary claim.

Based on these determinations I grant the landlord a monetary Order for the balance of **\$1,164.36**. 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.

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: December 22, 2009.

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Dispute Resolution Officer