



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes:

**MNDC, MNSD, FF**

### Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for compensation for 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 that on September 21, 2009 copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenant by registered mail. The landlord stated that on September 17, 2009 the tenant provided him with a written request for return of her deposit paid which included her forwarding address. A Canada Post tracking number was provided as evidence of service to the tenant's forwarding address. The landlord checked the Canada Post web site and established that the Notice of hearing was successfully delivered to the tenant.

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.

### Issue(s) to be Decided

Is the landlord entitled to compensation for damages due to loss of rent revenue?

May the landlord retain the deposit paid by the tenant?

Is the landlord entitled to filing fee costs?

### Background and Evidence

The tenancy agreement was signed by the parties on August 21, 2009 for a tenancy start date effective September 1, 2009. Rent was \$650.00 per month. On August 22, 2009, the tenant paid a deposit in the sum of \$325.00.

The landlord testified that on August 31, 2009 the tenant contacted him stating she would not move in. The landlord provided evidence that he immediately advertised the rental unit at a cost of \$59.17 and was able to locate a new tenant for September 16, 2009.

The landlord is claiming loss of one half of August 2009, rent and the advertising costs.

### Analysis

In the absence of evidence to the contrary, I find that the landlord is entitled to compensation for loss of one half of August, 2009 rent revenue. The tenant signed a legal document agreeing to rent the unit and failed to move into the unit. Section 16 of the Act provides that the rights and obligations take effect at the time the parties enter into the tenancy agreement. The tenant failed to meet her obligation and provide the landlord with proper notice to end the tenancy.

I find that the landlord mitigated his loss, as required under section 7 of the Act and that the landlord is entitled to compensation in the sum of \$325.00 for loss of rent revenue and advertising costs of \$59.17.

I find that the landlord's application has merit, and 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 \$325.00, in partial satisfaction of the monetary claim.

### Conclusion

I find that the landlord has established a monetary claim, in the amount of \$434.17, which is comprised of loss of rent revenue, advertising 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 \$325.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the landlord a monetary Order for the balance of \$109.17. 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*.

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Dated: January 15, 2010.

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Dispute Resolution Officer