



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### Dispute Codes:

OP, MNR, 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 an Order of possession, a monetary Order for unpaid rent, to retain 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 January 22, 2010 copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenants via registered mail at the address noted on the Application. A Canada Post tracking number was provided as evidence of service to the rental unit address.

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

The landlord withdrew the portion of the Application requesting an Order of possession as the tenants moved out on March 5, 2010. The Application was amended to remove the tenant's son from the agreement as he is not a signatory, but a person under eighteen years of age.

### Issue(s) to be Decided

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

Is the landlord entitled to retain the deposit paid by the tenant?

Is the landlord entitled to filing fee costs?

### Background and Evidence

The tenancy commenced on June 1, 2009, rent was \$695.00 per month and a deposit in the sum of \$347.50 was paid on June 5, 2009.

On January 2, 2010 the tenant was served with a 10 Day Notice to End Tenancy and on March 5, 2010 the tenants moved out of the rental unit. The tenants failed to pay January rent on time and did not pay February rent. The landlord is requesting loss of March rent as the tenants left after the first day of the month and the rental unit was left in a state that will require some rehabilitation before it can be rented again.

The landlord is claiming unpaid February rent, loss of March rent revenue and \$20.00 late fees for each January, February and March. Clause 3 of the tenancy agreement references fees due for late payment.

### Analysis

I find, in the absence of the tenant at this hearing, that the landlord is entitled to compensation in the sum of \$695.00 for unpaid February rent, plus January and February late rent payment fees in the amount of \$40.00. I find that the tenant did not move in response to the Notice to End Tenancy and that their late move resulted in a loss of revenue for March and that the landlord is entitled to compensation for that month in the sum of \$695.00, plus the \$20.00 late fee, as the tenants were over-holding.

Therefore, the landlord is entitled to a monetary Order in the sum of \$1,450.00. I find that the landlord may retain the deposit in the sum of \$347.50 in partial satisfaction of the monetary claim.

I find that the landlord's application has merit, and I find that the landlord entitled to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

### Conclusion

I find that the landlord established a monetary claim, in the amount of \$1,500.00, which is comprised of \$60.00 late fees, \$1,390.00 rent for February and loss of March rent revenue and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

The landlord will retain the deposit paid in the sum of \$375.50, in partial satisfaction of the monetary claim.

Based on these determinations I grant the landlord a monetary Order for **\$1,124.50**. 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: March 05, 2010.

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Dispute Resolution Officer