



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      CNR, OPR, MNR, MNSD, MNDC, FF

### Introduction

This was the hearing of cross applications by the landlord and the tenant. The tenant applied to cancel a 10 day Notice to End Tenancy for unpaid rent. The landlord applied for an order for possession, a monetary order and an order to retain the security deposit. The hearing was held at the Residential Tenancy Office in Burnaby. The tenant attended and the landlord and his wife attended. The parties advised me at the outset of the hearing that the tenant has vacated the rental unit and an order for possession is no longer required.

### Issues(s) to be Decided

Is the landlord entitled to a monetary order and if so, in what amount?

### Background and Evidence

The rental unit is a basement suite in the landlord's house. The tenancy began on July 1, 2010. Monthly rent was \$850.00. The tenant paid a security deposit of \$25.00 on June 23, 2010. The tenant did not pay rent for September, 2010. The landlord served the tenant with a 10 day Notice to End Tenancy dated September 7, 2010. The Notice required the tenant to move out by September 17, 2010. The tenant applied to dispute the Notice to End Tenancy on September 9, 2010. In her application she did not deny that rent for September had not been paid, she claimed to have been robbed and said she needed more time to pay the rent.

The tenant testified that she moved out of the rental unit on September 29, 2010. The landlord and his wife disputed her testimony. They said that they were away on a trip until several days ago. When they returned home their agent told them he spoke to the tenant and attempted to meet with her during the landlord's absence. He told the landlord that the tenant did not move out until October 12, 2010 and consequently the agent was not able to attempt to re-rent the unit for the month of October. The landlord also testified that a house sitter that they arranged to stay in the house during their absence had an altercation with the tenant in October, 2010 and the tenant was still occupying the rental unit. The tenant said she neglected to bring invoices from the moving company to establish when she moved.

The landlord claimed a monetary award for the rent due for September, loss of revenue for October, some carpet cleaning costs and the filing fee for the application. The landlord did not provide any invoice for carpet cleaning.

### Analysis and Conclusion

The tenant acknowledged that she was responsible for September's rent. There is no basis for her application to cancel the Notice to End Tenancy and it is dismissed. The tenant contended that she moved out on September 29, 2010; her evidence was contradicted by the landlord. Two separate individuals, one the landlord's agent and the second, their house sitter told them the tenant did not move out until on or about October 12, 2010. In the absence of any invoice or record from the tenant's moving company, I accept and prefer the evidence of the landlord to that of the tenant. I so find because the tenant's excuses for non-payment of rent are unlikely and her testimony that she will not provide a forwarding address because the landlord has harassed her are not believable.

I find that the tenant moved out of the rental unit or about October 12, 2010. I find that the landlord is entitled to claim unpaid rent for September in the amount of \$850.00 and loss of revenue for October in the amount of \$850.0. The landlord is entitled to the

\$50.00 filing fee paid for this application for a total award of \$1,750.00. I order that the landlord retain the deposit and interest of \$425.00 and I grant the landlord an order under section 67 for the balance due of \$1,325.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

The landlord did not supply any evidence with respect to cleaning or repair costs; he has leave to apply to claim these costs if he so chooses.