



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MND, MNDC, MNSD, MNR, FF

### Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent or utilities, for compensation for loss or damage under the Act or tenancy agreement, for compensation for damage to the unit, site or property, to recover the filing fee for this proceeding and to keep the Tenant's security deposit in partial payment of those amounts.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on August 20, 2010. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

### Issues(s) to be Decided

1. Are there rent or utilities arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent or utilities and if so how much?
3. Are there damages to the unit, site or property and if so how much?
4. Is the Landlord entitled to compensation for damage or loss and if so how much?
5. Is the Landlord entitled to keep the Tenant's security deposit?

### Background and Evidence

This tenancy started on May 1, 2010 as a 1 year fixed term tenancy with an expiry date of April 30, 2010. Rent is \$1,575.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$787.50 on March 17, 2010.

The Landlord agent said that the Tenant moved out prior to July 30, 2010, but she did not know the exact date. She said the Tenant's son returned the rental unit's keys and provided a forwarding address in the last week of July, 2010. The Landlord's agent continued to say a move out condition report was completed on July 30, 2010, without the Tenant and that report was sent to the forwarding address.

The Landlord's agent said that although the costs incurred from the ending of this tenancy are more than what has been applied for, she said the Landlord would be

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satisfied with the placement fee and the move in and move out strata fee, both resulting from a early end to the tenancy. The placement fee is in the tenancy agreement (clause #3.0) and is  $\frac{1}{2}$  the rent plus HST in the amount of \$882.00. The Landlord's agent said the placement fee covers costs and damages to rent the unit to new tenants. These costs include advertising the unit, showing the unit and screening new potential tenants as well as a management fee. The strata move in and move out fees are \$100.00 each totally \$200.00. The Landlord's agent said they incurred cleaning costs of over \$400.00 and the Tenants did not pay the July, 2010 rent of \$1,575.00, but she said the Landlord is not including these items in their claim. The Landlord's agent said their totally claim is as applied for in the amount of \$1,082.00 and they request to retain the Tenant's security deposit in the amount of \$787.50 for partial payment of the claim.

## Analysis

Section 7 (f) of the Residential Tenancy Regulation allows for a landlord to charged a move-in and move-out fee.

Section 4 of the Residential Tenancy Policy guidelines says that a fee charge to the tenant for an early end to a tenancy that is used to pay liquidated damages and is agreed to by the parties is a damage or loss that a landlord can claim.

As both fees the Landlord is claiming are eligible for compensation under the Act, Regulations or the Policy guidelines, I find for the Landlord in the amount of \$1,082.00 made up of the placement fee and HST of \$882.00 and the move-in and out fees in the amount of \$200.00.

As the Landlord has been successful in this matter, they are also entitled to recover from the Tenants the \$50.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) and s. 72 of the Act to keep the Tenant's security deposit in partial payment of the Landlord's claims. The Landlord will receive a monetary order for the balance owing as following:

	Placement Fee & HST	\$ 882.00
	Strata fees	\$ 200.00
	Filing Fee	\$ 50.00
	Subtotal:	\$1,132.00
Less:	Security Deposit	\$ 787.50
	Balance Owing	\$ 344.50



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## Conclusion

A Monetary Order in the amount of \$344.50 has been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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*.