



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNR, MND, MNDC, MNSD, FF

### Introduction

This matter dealt with an application by the Landlords for a monetary order for unpaid rent, for compensation for damages to the rental unit, to recover the filing fee for this proceeding and to keep the Tenants' security deposit in partial payment of those amounts.

The Landlords said they served the Tenants with the Application and Notice of Hearing (the "hearing package") by registered mail on or about August 21, 2010. Section 90 of the Act says that a document delivered by mail is deemed to be received by the recipient 5 days later. Based on the evidence of the Landlords, I find that the Tenants were served with the Landlords' hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenants' absence.

### Issues(s) to be Decided

1. Are there rent arrears and if so, how much?
2. Are the Landlords entitled to compensation for damages to the rental unit and if so, how much?
3. Are the Landlords entitled to keep the Tenants' security deposit?

### Background and Evidence

This fixed term tenancy started on October 25, 2009 and was to expire on October 31, 2010, however it ended on March 1, 2010 when the Tenants moved out. Rent was \$1,950.00 per month payable in advance on the first day of each month. The Tenants paid a security deposit of \$975.00 at the beginning of the tenancy.

The Landlords said the tenancy was supposed to start on November 1, 2009, however the Tenants moved in earlier and agreed to pay \$440.00 for that month. The Landlords said the Tenants made the following payments during the tenancy:

October 2009:	\$220.00
November 2009:	\$0.00
December 2009:	\$2,112.50
January 2010:	\$0.00



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February 2010: \$980.00

Consequently, the Landlords claim that the Tenants have rent arrears of \$4,927.50.

## Analysis

In the absence of any evidence from the Tenants to the contrary, I find that there are rent arrears of \$4,927.50 and I award the Landlords that amount. The Landlords also sought to recover compensation for damages to the rental unit, however, there was no evidence filed in support of that claim and the Landlords' application contains no details of the damages alleged or the amount of compensation sought. Consequently, I find that the Tenants have not had reasonable notice of this part of the Landlords' claim and it is dismissed with leave to reapply.

I find that the Landlords are entitled pursuant to s. 72 of the Act to recover the \$50.00 filing fee for this proceeding. I order the Landlords pursuant to s. 38(4) of the Act to keep the Tenants' security deposit in partial payment of the rent arrears. The Landlords will receive a monetary order for the balance owing of \$4,002.50.

## Conclusion

A Monetary Order in the amount of **\$4,002.50** has been issued to the Landlords and a copy of it must be served on the Tenants. If the amount is not paid by the Tenants, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: November 15, 2010.

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Dispute Resolution Officer