



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

### Dispute Codes:

OPR, 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, 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 March 7, 2011, copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenant's rental unit address via registered mail. A Canada Post tracking number and copy of the receipt was provided as evidence of service.

Registered mail is deemed served on the fifth day after mailing. A respondent may not avoid service by declining the registered mail. I find that the Notice of this hearing was served to the tenant by March 12, 2011; prior to her vacating the rental unit.

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 testified that effective March 17, 2011, the tenant had vacated the rental unit and that he now had possession of the unit. Therefore, the landlord withdrew the request for an Order of possession.

### 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

A copy of the tenancy agreement submitted as evidence indicated that the tenancy commenced on May 1, 2010, rent was \$850.00 per month due on the first day of each month. A deposit in the sum of \$500.00 was paid on April 23, 2010.

On February 17, 2011, the landlord issued the tenant a 10 Day Notice Ending Tenancy for Unpaid rent as the tenant had failed to pay January and February, 2011, rent owed. The Notice had been served via registered mail, which the tenant did not claim. The landlord confirmed during a telephone call with the tenant that she had moved out on March 17, 2011.

The landlord is claiming compensation for unpaid January to March, 2011, rent, inclusive, in the sum of \$2,500.00. The Notice ending tenancy submitted as evidence indicated \$1,600.00 was owed for January and February; the tenancy agreement indicated rent was \$850.00 per month.

### Analysis

Based on the testimony of the landlord, the evidence before me and, in the absence of the tenant who was served with Notice of this hearing, I find that the landlord is entitled to compensation for unpaid rent in the sum of \$800.00 per month for each of January and February, 2011, plus \$850.00 for March, 2011 rent arrears.

The landlord has claimed \$800.00 per month for January and February; the balance of the claim is in relation to \$850.00 for March rent owed plus the \$50.00 filing fee.

The landlord will retain the deposit in the sum of \$500.00 in partial satisfaction of the claim.

I find that the landlord's application has merit, and 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 \$2,500.00, which is comprised of unpaid rent from January to March, 2011, inclusive and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

The landlord will retain the \$500.00 deposit in partial satisfaction of the claim for compensation.

Based on these determinations I grant the landlord a monetary Order for **\$2,000.00**. 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 22, 2011.

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Residential Tenancy Branch