



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

### Dispute Codes:

MNR, MNSD, FF

### Introduction

This was a cross-application hearing.

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for 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 tenant's have applied for return of the deposit paid.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing

### 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?

Are the tenants entitled to return of the deposit paid?

Is the landlord entitled to filing fee costs?

### Background and Evidence

The tenancy commenced on December 1, 2009; rent was \$880.00 per month, due on the first day of the month. A deposit in the sum of \$440.00 was paid on November 25, 2009. A copy of the tenancy agreement was submitted as evidence.

The parties confirmed that on October 8, 2010, the tenants received a 1 Month Notice Ending Tenancy for Cause, which the tenant's disputed. A hearing was held on November 10, 2010; a copy of the decision was supplied by the landlord. The dispute resolution officer was not aware of any request made by the tenant to cancel that hearing held at 1:30 p.m.; and, as the landlord attended, the application was dismissed.

The landlord is claiming 10 days loss of rent income as the tenants did not pay November rent owed and it was not until the day of the hearing that she was confident she had possession of the unit.

The tenant stated that on November 4, 2010, the landlord knew they were vacating and that on November 1, 2010, the landlord gave them a document telling the tenants they had to move out. The landlord stated that document was evidence served in response to the tenant's application.

The tenants had agreed to a \$75.00 deduction from the deposit, and signed a November 9, 2010, condition inspection report agreeing to the deduction. A copy of the report was submitted as evidence.

The landlord applied to retain the deposit by submitting the application on November 12, 2010. The tenants provided their written forwarding address on November 9, 2010.

### Analysis

I find, in the absence of Notice given by the tenants ending the tenancy as required by section 45 of the Act; that the landlord is entitled to unpaid rent from November 1 to 10, 2010, in the sum of \$289.32. The tenant's disputed the Notice issued for cause; thus indicating they believed the Notice was not valid. The tenants then vacated the rental unit without providing the landlord with proper written Notice ending their tenancy; resulting in a loss of rent to the landlord.

I find, based on the agreement of the tenants by signing the move-out condition inspection report and testimony during this hearing, that the landlord was entitled to retain \$75.00 from the deposit for damage to the unit.

Therefore, the landlord is entitled to a total of \$364.32 in unpaid rent and damages. The landlord will retain the deposit in satisfaction of the 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 \$414.32, which is comprised of \$289.32 November, 2010 rent, \$75.00 damages and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

The balance of the deposit in the sum of \$25.68, shall be returned, forthwith, to the tenants.

Based on these determinations I grant the tenants a monetary Order for \$25.68. 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 24, 2011.

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