



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

### Dispute Codes:

MNR, FF

### Introduction

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 and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

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.

### Preliminary Matter

The landlord confirmed that the second tenant named on the application, S.R., was not served with Notice of this hearing. Therefore, in the absence of service to that tenant, the claim against the co-tenant could not proceed.

### Issue(s) to be Decided

Is the landlord entitled to a monetary Order for unpaid rent?

Is the landlord entitled to filing fee costs?

### Background and Evidence

At the start of the hearing the parties agreed to the following facts:

- The tenancy commenced on September 1, 2010;
- 2 tenants signed the agreement;
- A deposit in the sum of \$600.00 was paid;
- Rent was \$1,200.00 due on the first day of each month;
- Tenant K.W. gave proper written notice ending the tenancy effective January 31, 2011;
- That the landlord had possession of the rental unit on January 19, 2011; and
- That January, 2011, rent was not paid.

The tenant agreed that permission had been granted to the landlord allowing her to retain the deposit paid, as partial payment of January rent owed. The tenant did not dispute the landlord's testimony that the co-tenant had sent the landlord an email giving the landlord written permission to retain the deposit.

The tenant acknowledged that the balance of January, 2011, rent has not been paid.

### Analysis

Based on the agreement of the tenant, the landlord has retained the deposit in the sum of \$600.00 toward January, 2011, rent owed.

Therefore, based on the tenant's acknowledgement of rent owed, I find that the landlord is entitled to the balance of January 2011, rent owed in the sum of \$600.00.

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 \$1,250.00, which is comprised of unpaid January, 2011, rent and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

The landlord is retaining the deposit in the sum of \$600.00, by agreement of the tenant, toward January rent arrears.

Based on these determinations I grant the landlord a monetary Order for \$650.00. 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.

The claim against tenant S.R. has not succeeded as that tenant was not served with notice of this hearing.

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 30, 2011.

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Residential Tenancy Branch