



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

### Dispute Codes:

**MNR, MNSD, MNDC, FF**

### Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for compensation for unpaid rent, to retain all or part of the security deposit and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that on December 17, 2010, copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenants by one registered mail package. A Canada Post tracking number was provided as evidence of service. The landlord testified that on December 17, 2010, the male tenant signed, accepting the registered mail.

These documents are deemed to have been served to the male tenant only, in accordance with section 89 of the *Act*; however the tenant did not appear at the hearing.

There was no evidence before me that the female tenant was served with Notice of this hearing; therefore, in the absence of proof of service, as required by Section 89(2) of the *Act*, the claim against the female tenant is dismissed.

### Issue(s) to be Decided

Is the landlord entitled to compensation for loss of rent revenue for December,, 2010 in the sum of \$375.00?

Is the landlord entitled to compensation for damage or loss under the *Act* in the sum of \$123.25 for advertising costs?

May the landlord retain the deposit in partial satisfaction of the claim for compensation?

Is the landlord entitled to filing fee costs?

### Background and Evidence

The 6 month fixed-term tenancy commenced on August 1, 2010, rent was \$750.00 per month, due on the first of each month. A deposit in the sum of \$357.00 was paid on April 2, 2010.

On October 31, 2010, the tenants gave written notice they would move out December 1, 2010. The tenants vacated on November 31, 2010. The landlord began advertising on November 3, 2010, in 2 Kelowna newspapers and found new occupants for December 15, 2010. The landlord is claiming the loss of rent revenue for December as a result of the tenant's breach of the fixed term tenancy agreement.

The landlord is claiming advertising costs that they incurred.

A copy of the tenancy agreement, written notice ending tenancy, written forwarding address and advertising bills were submitted as evidence.

### Analysis

In the absence of the male tenant, who was served with notice of this hearing, I find that the landlord is entitled to compensation for loss of December, 2010, rent revenue in the sum of \$375.00

I find that the landlord mitigated the loss by immediately advertising the unit and obtaining new occupants within 2 week of the tenants leaving. Therefore, I find the landlord is entitled to advertising costs in the sum of \$123.25.

I find that the landlord is entitled to retain the \$375.00 deposit paid in partial satisfaction of the claim for compensation.

I find that the landlord's application has merit, and I find that the landlord is entitled to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

### Conclusion

I find that the landlord has established a monetary claim, in the amount of \$550.23, which is comprised of \$375.00 loss of rent revenue, \$123.25 advertising costs and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

The landlord will be retaining the tenant's security deposit in the amount of \$375.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the landlord a monetary Order for the balance of \$175.23. 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: April 27, 2011.

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Residential Tenancy Branch