



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

### Dispute Codes:

MNR, MNSD, FF

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for unpaid rent; to keep all or part of the security deposit; and to recover the fee for filing this Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make submissions to me.

### Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to compensation for unpaid rent, to retain all or part of the security deposit paid by the Tenant; and to recover the filing fee for the cost of this Application for Dispute Resolution.

### Background and Evidence

The Landlord contends that this tenancy began on April 01, 2010 and the Tenant contends it began on March 15, 2010. The parties agree that the Tenant was required to pay monthly rent of \$950.00 on the first day of each month and that the Tenant paid a security deposit of \$475.00.

The Landlord and the Tenant agree that on, or about, October 08, 2010 the Tenant sent the Landlord an email in which she advised the Landlord that she would be ending the tenancy on December 01, 2010. The Landlord and the Tenant agree that on, or about, October 15, 2010 the Tenant sent the Landlord an email in which she proposed that she only provide the Landlord with one half of the month's rent that was due on November 01, 2010 with the understanding the Landlord could keep her security deposit and she would vacate by November 15, 2010.

The Landlord and the Tenant agree that the Tenant paid rent of \$475.00 for November of 2010.

The Landlord contends that the Tenant vacated the rental unit on November 15, 2010 and the Tenant contends she vacated on November 14, 2010. The parties agree that after the Tenant vacated she sent the Landlord an email in which she requested the return of a portion of her security deposit. The parties agree that the Tenant provided the Landlord with her forwarding address, via email, on November 25, 2010.

### Analysis

On the basis of the undisputed evidence presented at the hearing, I find that the Landlord and the Tenant entered into a tenancy agreement that required the Tenant to pay monthly rent of \$950.00 on the first day of each month; that on October 08, 2010 the Tenant provided the Landlord with written notice of her intent to vacate the rental unit on December 01, 2010; that on October 15, 2010 she provided the Landlord with written notice of her desire to end the tenancy on November 15, 2010; that she vacated the rental unit prior to the end of November of 2010; and that she only paid \$475.00 in rent for November of 2010.

Section 45 of the *Act* stipulates that a tenant may end a periodic tenancy by providing the landlord with written notice to end the tenancy on a date that is not earlier than one month after the date the Landlord received the notice and is the day before the date that rent is due. As rent is due on the first day of each month, the Tenant did not have the right to end this tenancy in the middle of the month, regardless of the amount of notice given to the Landlord.

The written notice to end the tenancy that the Tenant provided on October 08, 2010, in which she informed the Landlord she would be ending the tenancy on December 01, 2010 did not comply with section 45 of the *Act*, as it ended the tenancy on the day that rent was due, rather than the day before rent was due. To be effective, this written notice should have informed the Landlord that the Tenant wished to end the tenancy on November 30, 2010.

The written notice to end the tenancy that the Tenant provided on October 15, 2010, in which she informed the Landlord she would like to end the tenancy on November 15, 2010 did not comply with section 45 of the *Act*, as it ended the tenancy on the day that was fifteen days before rent was due, rather than the day before rent was due. To be effective, this written notice should have informed the Landlord that the Tenant wished to end the tenancy on November 30, 2010.

Section 53 of the *Act* stipulates that if a tenant gives notice to end a tenancy on a date that is earlier than the earliest date permitted by the legislation, the effective date is deemed to be the earliest date that complies with the legislation. In these circumstances, the earliest effective date of the notice that was given on October 15, 2010 was November 30, 2010. Therefore, I find that the notice to end tenancy that was given on October 15, 2010 effectively ended this tenancy on November 30, 2010.

Section 26 of the *Act* stipulates that a tenant must pay rent when rent is due. As the Tenant was required to pay rent for the month of November of 2010 and she only paid \$475.00 in rent for November, I find that she still owes the Landlord \$475.00 in rent.

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 \$525.00, which is comprised of \$475.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to retain the Tenant's security deposit in partial satisfaction of this debt.

Based on these determinations I grant the Landlord a monetary Order for the remaining amount \$50.00. 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: April 29, 2011.

---

Residential Tenancy Branch