



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, FF

### Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent and to recover the filing fee for this proceeding.

The Landlord said he served the Tenants with the Application and Notice of Hearing (the "hearing package") by registered mail on March 16, 2011. Based on the evidence of the Landlords, I find that the Tenants were served with the Landlords' hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenants' absence.

### Issues(s) to be Decided

1. Are there rent arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent and if so how much?

### Background and Evidence

This tenancy started on June 15, 2011 as a fixed term tenancy with an expiry date of June 30, 2011. Rent was \$1,100.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$550.00 and a pet deposit of \$550.00 in May 30, 2010. The Landlord said the Tenancy ended on January 15, 2011.

The Landlord said that the Tenants did not pay \$1,100.00 rent for each month of July, August and September, 2010, \$20.00 for October, 2010, \$500.00 for November, 2010 and \$700.00 for December, 2010, when it was due and as a result, on December 11, 2010 he posted a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated December 10, 2010. As well the Landlord said the Tenant has unpaid rent for January, 2011 of \$550.00.

The Landlord continued to say they did not check off the box to retain the security and pet deposit by mistake and they requested to amend the application to include the security and pet deposits as partial payment of the unpaid rent.

In addition the Landlord said they only paid a \$50.00 filing fee for this proceeding and they understand that fee amount limits their claim to \$5,000.00. The Landlord said the total unpaid rent is \$5,070.00.

### Analysis

Section 26 says a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I find the Tenants have not paid the unpaid rent and the Tenants do not have the right under the Act to withhold part or all of the rent for unpaid rent, therefore I find in favour of the Landlord for the unpaid rent and the filing fee for this proceeding in the amount of \$5,000.00.

In addition I accept the Landlord request to amend the application to include the security deposit of \$550.00 and the pet deposit of \$550.00 in the application for partial payment of unpaid rent.

As the Landlords have been successful in this matter, they are also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. I order the Landlords pursuant to s. 38(4) and s. 72 of the Act to keep the Tenant's security deposit and pet deposit in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as following:

	Rent arrears:	\$4,950.00
	Recover filing fee	\$ 50.00
	Subtotal:	\$5,000.00
Less:	Security Deposit	\$ 550.00
	Pet Deposit	\$ 550.00
	Subtotal:	\$ 1,100.00
	Balance Owing	\$ 3,900.00

Conclusion

A Monetary Order in the amount of \$3,900.00 has been issued to the Landlord. A copy of the Orders must be served on the Tenants: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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*.

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Residential Tenancy Branch