



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNSD, MNR, FF

### Introduction

This hearing was convened in response to an application filed by the landlord seeking:

1. A monetary Order for damage and/or compensation for loss;
2. An Order allowing the landlord to retain the security deposit; and
3. An Order to recover the filing fee for the cost of this application.

Both parties appeared at the hearing of this matter and gave evidence under oath.

### Issue(s) to be Decided

Is the landlord entitled to the Orders sought?

### Background and Evidence

The landlord testified that she wishes to withdraw the repairs and cleaning portion of her claim at this time and proceed with only her claim for loss of rent.

The landlord testified that this tenancy began on November 1, 2008. The tenant vacated the rental unit approximately December 2, 2011 without giving notice. The landlord says the tenant did not return the keys to the rental unit and the landlord had to retrieve the keys from the tenant and did so on or about December 10-12, 2011. The landlord testified that rent was fixed at \$1,400.00 and the tenant did provide a cheque in the sum of \$190.00 for December's rent but nothing more. The landlord therefore claims the balance of rent of \$1,210.00 plus recovery of the filing fee for the cost of this application.

The tenant's agent submitted that the tenant gave her notice verbally and that there are extenuating circumstances involved in this matter.

## Analysis

The *Residential Tenancy Act* sets out the provisions regarding payment of rent and how a tenancy may be ended by a tenant:

### **Rules about payment and non-payment of rent**

- 26** (1) 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.

### **Tenant's notice**

- 45** (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that
- (a) is not earlier than one month after the date the landlord receives the notice, and
  - (b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.
- 4) A notice to end a tenancy given under this section must comply with section 52 *[form and content of notice to end tenancy]*.

### **Form and content of notice to end tenancy**

- 52** In order to be effective, a notice to end a tenancy must be in writing and must
- (a) be signed and dated by the landlord or tenant giving the notice,
  - (b) give the address of the rental unit,
  - (c) state the effective date of the notice,

The evidence shows that the tenant did not give notice to end this tenancy as required by the Act and she only paid \$190.00 of the \$1,400.00 rent due for December 2010. I therefore find that the tenant is responsible for December's rental arrears as claimed in the sum of \$1,210.00. As I have made a financial award to the landlord I will allow the landlord to retain the security deposit in partial satisfaction of this award. As the

landlord has been successful in this claim I will also allow her to recover the filing fee paid for this application.

Calculation of monetary award in favour of landlord:

December 2010 rent due	\$1,400.00
December 2010 rent paid	-190.00
Less security deposit and interest from November 1, 2008	-701.75
Plus filing fee paid for this application	50.00
Balance due and owing by tenant to landlord	\$558.25

The landlord has withdrawn her claim for recovery of repair and/or cleaning costs and remains at liberty to bring that claim forward at another time.

#### Conclusion

The landlord is provided with an Order in the above terms. If the tenant fails to pay the sum listed above forthwith the landlord may enforce the Order as an Order of the Provincial 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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