



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

Tenant's application filed July 4, 2011: MNSD

Landlord's application filed July 15, 2011: MNR; MNDC; MNSD; FF

### **Introduction**

This Hearing was convened to consider cross applications. The Tenant seeks return of the security deposit.

The Landlord seeks a Monetary Order for unpaid rent and damages to the rental unit; compensation for damage or loss under the Act; to apply the security deposit towards partial satisfaction of her monetary award; and to recover the cost of the filing fee from the Tenant.

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that she served the Tenant with the Notice of Hearing documents by registered mail, sent July 15, 2011. The Landlord provided a copy of the registered mail receipt and tracking number along with a Canada Post tracking printout that indicates the Tenant signed for the documents on August 2, 2011 at 8:56 p.m.

The Landlord testified that she served the Tenant with copies of her documentary evidence by registered mail, sent August 23, 2011. The Landlord provided the tracking number.

Based on the Landlord's affirmed testimony, I am satisfied that the Tenant was served with the Notice of Hearing documents in accordance with the provisions of Section 89(1)(c) of the Act. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing continued in her absence.

Both matters were scheduled to be heard by teleconference at 10:30 a.m., September 7, 2011. The Landlord signed into the conference on time and was ready to proceed. The Tenant did not sign into the conference and therefore her application is dismissed without leave to reapply. The Hearing continued in the Tenant's absence with respect to the Landlord's application.

### **Issues to be Decided**

1. Is the Landlord entitled to unpaid rent for the rental periods of March 15, 2011 to April 14, 2011 and April 15, 2011 to May 14, 2011?
2. Is the Landlord entitled to compensation for damage or loss pursuant to the provisions of Section 67 of the Act?

### **Background and Evidence**

#### **The Landlord provided the following testimony:**

The Landlord testified that the Tenant was evicted on April 28, 2011, pursuant to a Writ of Possession from the Supreme Court of British Columbia.

The Landlord testified that rent was \$525.00 and was due on the 15<sup>th</sup> day of each month. She stated that the Tenant was evicted pursuant to a Notice to End Tenancy that was issued for nonpayment of rent that was due on March 15, 2011. The Landlord provided a copy of the Residential Tenancy Branch Decision and Order of Possession dated April 14, 2011.

The Landlord seeks unpaid rent in the amount of \$525.00 for March 15 – April 14, 2011. The Landlord also seeks loss of income in the amount of \$525.00 for April 15 - May 14, 2011. The Landlord testified that she re-rented the rental unit effective June 15, 2011.

The Landlord testified that the Tenant did not move out of the rental unit pursuant to the Order of Possession and that the Landlord had to file the Order in Supreme Court. The Landlord seeks to recover the cost of filing the Order of Possession (\$120.00) and the cost of hiring a Bailiff (\$815.45). The Landlord provided copies of the receipts for the Supreme Court filing fees and the Bailiff.

The Landlord testified that she had to change the locks on the rental unit after the Tenant was evicted. The Landlord seeks to recover that loss, in the amount of \$16.74. The Landlord provided a receipt for the cost of changing the locks.

### **Analysis**

Based on the affirmed testimony of the Landlord, and the documentary evidence provided, I am satisfied that the Tenant did not pay rent for the period of Mar 15 – April 14, 2011. I am also satisfied that the Tenant did not comply with the Order of Possession dated April 14, 2011, which necessitated the Landlord filing the Order in Supreme Court for enforcement and changing the locks on the rental unit.

Section 67 of the Act states:

**67** Without limiting the general authority in section 62 (3) [*director's authority respecting dispute resolution proceedings*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find that the Landlord suffered loss as a result of the Tenant failing to comply with the Act and with an Order of the Director and that the Landlord is entitled to compensation, calculated as follows:

Description	Amount
Loss of income (April 15 – May 14, 2011)	\$525.00
Cost of changing the lock	\$16.74
Cost of filing the Order of Possession	\$120.00
Cost of Bailiff fees	<u>\$815.45</u>
TOTAL	<b>\$2,002.19</b>

The Landlord has been successful in her claim and is entitled to recover the cost of the **\$50.00** filing fee from the Tenant.

Pursuant to the provisions of Section 72 of the Act, the Landlord may apply the **\$225.00** security deposit towards partial satisfaction of her monetary award.

I hereby provide the Landlord with a Monetary Order, calculated as follows:

Monetary award	\$2,002.19
Recovery of filing fee	\$50.00
Less set off security deposit	<u>-\$225.00</u>
TOTAL	<b>\$1,827.19</b>

### **Conclusion**

The Tenant's application is **dismissed without leave to reapply**.

I hereby provide the Landlord with a Monetary Order in the amount of **\$1,827.19** for service upon the Tenant. This Order may be filed in the Provincial Court 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: September 12, 2011.

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Residential Tenancy Branch