



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **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 has made application for a monetary Order for unpaid rent, to retain all or part of the security deposit, and to recover the filing fee from the Tenant for the cost of 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 relevant submissions to me.

### Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to a monetary Order for unpaid rent; to keep all or part of the security deposit; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The Landlord and the Tenant agree that they had a tenancy agreement that required the Tenant to pay monthly rent of \$1,100.00 on the first day of each month; that the Tenant paid a security deposit of \$550.00; and that the tenancy ended on December 01, 2010.

The Landlord stated that the Tenant currently owes \$4,650.00 and provided a verbal explanation of how this debt had accrued. The Landlord submitted a series of emails he sent to the Tenant which clearly outline when the Tenant made online payments and what rent was due at the time the emails were sent. The Landlord stated that the Tenant made two cash payments at the beginning of the tenancy; that the Tenant was given receipts for those payments; that the Tenant made a cash payment to the Landlord's brother, which is clearly outlined in the email dated February 26, 2010; and that all other payments have been made electronically.

The Tenant stated that he does not know how much rent he owes but he does not believe it is as much as the Landlord is claiming. He stated that it is difficult to ascertain

how much he owes, as he paid many of the payments electronically and he no longer has access to those records. He stated that he made some payments in cash, although he cannot recall the dates or the amounts of those payments. He stated that he “maybe” received receipts for his initial cash payments; that he did receive the email regarding the cash payment made to the Landlord’s brother; and that he is “probably sure” that he made additional cash payments, for which he did not receive receipts.

### Analysis

I find that the Tenant currently owes the Landlord \$4,650.00 in unpaid rent. In reaching this conclusion I was influenced by the testimony of the Landlord, who was able to state amounts of payments and the dates they were paid. I was heavily influenced by the emails submitted in evidence, which were sent to the Tenant at various times throughout the tenancy, which clearly outline amounts paid and amounts owing.

I find that the Tenant’s testimony was not particularly helpful in determining this matter, as he was unable to recall amounts or dates of any payments made.

I favor the testimony of the Landlord over the testimony of the Tenant in regards to whether receipts were provided when cash payments were made. In making this determination I was heavily influenced by the fact that the Tenant thinks he might have received a receipt for the two cash payments he made during the early part of the tenancy; by the Landlord’s testimony that receipts were given for those payments; and by the fact that the Landlord acknowledged a third cash payment of \$400.00 by email, which I find to be a reasonable facsimile of a receipt. Given the Landlord’s history of providing receipts and documenting both cash and electronic payments via email, I find it highly unlikely that the Landlord would have accepted a cash payment without providing a receipt.

I find that the Landlord’s application has merit and 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 \$5,000.00, which is comprised of \$4,650.00 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 keep the Tenant’s security deposit in the amount of \$550.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$4,450.00. 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: December 21, 2011.

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Residential Tenancy Branch