



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **INTERIM DECISION**

**Dispute Codes:** OPR; MNR; FF

### **Introduction**

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent ; and to recover the cost of the filing fee from the Tenants.

The Landlord's agents gave affirmed testimony at the Hearing. An Interim Decision was issued on November 8, 2011, which should be read in conjunction with this Decision.

### **Issues to be Decided**

- Is the Landlord entitled to a Monetary Order, and if so, in what amount?

### **Background and Evidence**

The Interim Decision date November 8, 2011, determined that the tenancy ended on October 17, 2011, and provided the Landlord an Order of Possession effective 3 days after posting the Order on the door at the rental unit.

This Decision deals with the Landlord's application for a Monetary Order for unpaid rent; to retain the security deposit in partial satisfaction of her monetary award; and to recover the cost of the filing fee from the Tenants.

#### **The Landlord's agents gave the following testimony and evidence:**

Monthly rent is \$1700.00 per month, due the first day of each month. The Landlord's agent testified that the Tenants did not pay rent for October or November, 2011.

The Landlord's agent testified that the Tenants paid a security deposit in the amount of \$850.00 on June 1, 2011. The Landlord's agent asked that the security deposit be set off against any monetary award for the Landlord.

The Landlord's agent testified that Tenants had requested permission to do some minor renovations, painting and to replace the vanity at the rental unit in return for reduced rent. The Landlord's agent testified that the Landlord agreed to deduct the amount the Tenant spent on renovations and the new vanity from rent. The Landlord's agent testified that the Tenants had not finished the repairs or replaced the vanity and therefore the Landlord seeks to recover this amount of unpaid rent.

The Landlord seeks a total monetary award, calculated as follows:

Unpaid rent for July, 2011 (cost of materials for renovations)	\$769.50
Unpaid rent for August, 2011 (cost of new vanity)	\$700.00
Unpaid rent for October, 2011	\$1,700.00
Loss of revenue for November, 2011	\$1,700.00
Recovery of filing fee	<u>\$50.00</u>
Total claim	\$4,919.50

### **Analysis**

I accept the Landlord's agent's testimony that the Tenants did not pay rent for the month of October, 2011, and therefore the Landlord is entitled to that portion of her application. I find that the Landlord is also entitled to loss of revenue for the month of November, 2011.

With respect to the Landlord's claim for unpaid rent in the amount of \$769.50 for July and \$700.00 for August, 2011, I find that the Landlord and the Tenants co-mingled a tenancy agreement with a contract for services. The Residential Tenancy Act does not have jurisdiction over such contracts and therefore I decline jurisdiction over that portion of the Landlord's application.

The Landlord's application had merit and I find that she is entitled to recover the cost of the filing fee from the Tenants.

Pursuant to the provisions of Section 72 of the Act, the Landlord may apply the security deposit towards partial satisfaction of her monetary award. I hereby provide the Landlord a monetary order for the balance, calculated as follows:

Unpaid rent for October, 2011	\$1,700.00
Loss of revenue for November, 2011	\$1,700.00
Recovery of filing fee	<u>\$50.00</u>
Subtotal	\$3,450.00
Less security deposit	<u>-\$850.00</u>
BALANCE after setting off the security deposit	\$2,600.00

### **Conclusion**

I hereby provide the Landlord Monetary Order in the amount of **\$2,600.00** for service upon the Tenants. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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: November 14, 2011.

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Residential Tenancy Branch