



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNSD, FF

### Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent, to recover the filing fee for this proceeding and to keep the Tenant's security deposit in partial payment of those amounts.

The Landlord's agent said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on October 25, 2011. The Landlord's agent said the Tenant failed to pick up this mail and it was returned to the Landlord. The Landlord's agent said she confirmed that the address on the registered mail contained the Tenant's correct and complete mailing address. Section 90(a) of the Act says that a document delivered by mail is deemed to be received by the recipient 5 days later. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

### Issue(s) to be Decided

1. Are there rent arrears and if so, how much?
2. Is the Landlord entitled to keep the Tenant's security deposit?

### Background and Evidence

This tenancy started on November 15, 2008 and ended on October 31, 2011 when the Tenant moved out. Rent was \$3,682.00 per month payable in advance on the 1<sup>st</sup> calendar day of each month. The Tenant paid a security deposit of \$1,800.00 on November 14, 2008.

The Landlord's agent said the Tenant's rent cheque for October 2011 was returned for non-sufficient funds and as a result, rent for October 2011 remains unpaid.

### Analysis

In the absence of any evidence from the Tenant to the contrary, I find that rent is unpaid for October 2011 in the amount of \$3,682.00 however according to the Landlord's ledger, the Tenant had a credit of \$15.00 and therefore I find that rent of \$3,667.00 is outstanding.

As the Landlord has been successful in this matter, it is entitled pursuant to s. 72(1) of the Act to recover from the Tenant the \$50.00 filing fee it paid for this proceeding. I Order the Landlord pursuant to s. 38(4) of the Act to keep the Tenant's security deposit of \$1,800.00 and accrued interest of \$3.54 in partial payment of the monetary award. The Landlord will receive a Monetary Order for the balance owing of **\$1,913.46**.

### Conclusion

A Monetary Order in the amount of \$1,913.46 has been issued to the Landlord and a copy of it must be served on the Tenant. If the amount is not paid by the Tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: January 16, 2012.

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Residential Tenancy Branch