



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNDC, MNSD and FF

### Introduction

This application was brought by the landlord on October 21 2011 seeking a monetary award for unpaid rent and utilities, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

As a matter of note, the landlord submitted some evidence of the need for cleaning or damage to the rental unit received on the day before the hearing. In addition to the material submitted being late as evidence, it raises a claim in damages which was not indicated on the original application. Therefore, landlord would have had to amend her application in advance and move-in or move-out condition inspection reports were not completed. Therefore, the claim for damages is dismissed without leave to reapply.

### Issue(s) to be Decided

This matter requires a decision on whether the landlord is entitled to a monetary award for the claims for unpaid rent and utilities and filing fee, and authorization to retain the security deposit in set off.

### Background, and Evidence

This tenancy began on November 1, 2010 and ended on October 31, 2011. Rent was \$600 per month and the landlord holds a security deposit of \$300 paid on or about November 1, 2010.

During the hearing, the landlord gave uncontested evidence that the tenant had paid only half of the rent for October 2011 and the tenant acknowledged that he had intended that the security deposit to cover the balance.



The landlord stated that the tenant had agreed to be responsible for one-sixth of the hydro billings. The tenant stated that he believed he had paid his share of the hydro but the billing for September and October had not been sent to the landlord until November by which time the tenant had departed without providing a forwarding address. The landlord also submitted an exchange of emails in which the tenant concurred in his of October 11, 2011 that he owed \$50 for hydro. One-six of the billing was marginally higher than that, but the landlord claimed the \$50.

### Analysis

Section 26 of the Act provides that tenants must pay rent when it is due and section 67 of the Act authorizes the director's delegate to determine an amount owed for a breach of the legislation or rental agreement and to order the non-compliant part to pay that amount to the other.

Section 72(2) of the Act provides that, if the director's delegate finds that a tenant owes an amount of money to the landlord, the delegate may order that the landlord retain the security deposit in set off.

Accordingly, I find that the tenant owes to the landlord \$300 for the rent shortfall for October 2011, and \$50 for a share of the utilities. As the application has succeeded on its merits, I further find that the landlord should recover the filing fee for this proceeding from the tenant.

Thus, I find that the landlord is entitled to a monetary award calculated as follows:

Rent shortfall for October 2011	\$300.00
Filing fee	<u>50.00</u>
Sub total	\$400.00
Less retained security deposit (No interest due)	<u>- 300.00</u>
<b>TOTAL</b>	<b>\$100.00</b>

### Conclusion



In addition to authorization to retain the tenant's security deposit in set off, the landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for \$100.00 for service on the tenant.

The landlord's late claims for cleaning and damages are dismissed without leave to reapply.

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 10, 2012.

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Residential Tenancy Branch