



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes:

OPR, MNR, MND, FF

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent and damage to the rental unit, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution. At the hearing the male Landlord withdrew the application for a monetary Order for damages and for an Order of Possession.

The male Landlord stated that he personally served a folder containing two copies of the Application for Dispute Resolution and Notice of Hearing to the male Tenant, in the presence of the female Tenant, on January 17, 2012. Based on the testimony of the male Landlord and in the absence of evidence to the contrary, I find that these documents have been served in accordance with sections 89(1)(a), 89(2)(a), and 71(2)(c) of the *Residential Tenancy Act (Act)*, however neither Tenant appeared at the hearing.

### Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to a monetary Order for unpaid rent and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The male Landlord stated that this tenancy began on October 01, 2011; that the Tenant is required to pay monthly rent of \$800.00 by the first day of each month; that the Tenant paid a security deposit of \$350.00; and that the Tenant vacated the rental unit on January 31, 2012.

The male Landlord stated that the Tenant did some drywall work for him, for which he agreed the Tenant could reduce his rent payment for January of 2012 by \$400.00; that on January 11, 2012 the Tenant paid \$50.00 in rent; and that on January 11, 2012 the Tenant provided them with written authorization to keep the security deposit as payment for the remaining rent owed for January.

The male Landlord stated that on January 10, 2012 he posted a Ten Day Notice to End Tenancy for Unpaid Rent, which had a declared effective date of January 20, 2012, on the door of the rental unit; that he knocked on the door; and that he observed the female Tenant remove the Notice from the door.

### Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant entered into a tenancy agreement with the Landlord that requires the Tenant to pay monthly rent of \$800.00 by the first day of each month.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant did not pay all of the rent that was due by January 01, 2012, and that they still owed rent of \$350.00 in rent on January 11, 2012. I note that the Tenant did not have the right to apply the security deposit to the rent without the written permission of the Landlord, pursuant to section 21 of the *Act*.

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 \$400.00, which is comprised of \$350.00 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 retain the Tenant's security deposit of \$350.00 in partial satisfaction of this monetary claim. Based on these determinations I grant the Landlord a monetary Order for the remainder of the claim, in the amount of \$50.00. 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: February 01, 2012.

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Residential Tenancy Branch