



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, MNSD, FF

### Introduction

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

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by personal delivery on March 2, 2012. 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.

At the start of the conference call the Landlord said the Tenant moved out of the rental unit on March 9, 2012 and as a result she does not require an Order of Possession as she already has possession of the unit. The Landlord said she is withdrawing her application for an Order of Possession.

### Issues(s) to be Decided

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

### Background and Evidence

This tenancy started on July 1, 2011 as a month to month tenancy. Rent is \$800.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$400.00 in advance of the tenancy.

The Landlord said that the Tenant did not pay \$300.00 of rent for February, 2012, when it was due and as a result, on February 21, 2012 she personally delivered a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated February 21, 2012 to the Tenant. The Landlord said the Tenant has unpaid rent for March, 2012, as well in the amount of \$400.00.



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The Landlord also requested to retain the Tenant's security deposit of \$400.00 and to recover the \$50.00 filing fee for this proceeding.

## Analysis

Section 26 says a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

The Tenant did not have the right under the Act to withhold part or all of the rent for February, 2012 in the amount of \$300.00 and for March, 2012 in the amount of \$400.00; therefore I find in favour of the Landlord for the unpaid rent of \$700.00 for February and March, 2012.

As the Landlord has been successful in this matter, she is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) and s. 72 of the Act to keep the Tenant's security deposit in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as following:

	Rent arrears:	\$ 700.00	
	Recover filing fee	\$ 50.00	
	Subtotal:		\$ 750.00
Less:	Security Deposit	\$ 400.00	
	Subtotal:		\$ 400.00
	Balance Owing		\$ 350.00

## Conclusion

A Monetary Order in the amount of \$350.00 has been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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*.

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Dispute Resolution Officer