



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

**MNR, MNSD, MNDC, FF**

### Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested compensation for loss of rent revenue, unpaid rent, to retain the security deposit and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

### Issue(s) to be Decided

Is the landlord entitled to compensation in the sum of \$1,100.00 for unpaid September, 2012 rent?

Is the landlord entitled to compensation for loss of October 2012 rent revenue in the sum of \$1,100.00 plus a move-in fee in the sum of \$100.00?

May the landlord retain the \$550.00 deposit?

Is the landlord entitled to filing fee costs?

### Background and Evidence

The 1 year fixed-term tenancy commenced on July 1, 2012; rent was \$1,100.00 per month, due on the first day of each month. A deposit in the sum of \$550.00 was paid. A copy of the signed tenancy agreement was supplied as evidence.

The parties agreed that the tenancy ended as the result of a 10 Day Notice to End Tenancy issued ending the tenancy in August, 2012. The tenant did not vacate; the

landlord obtained an Order of possession which was served to the tenant on September 24, 2012.

On September 27, 2012 the landlord and tenant completed a move-out condition inspection report. The landlord was given the tenant's forwarding address; the landlord had applied claiming against the deposit on September 26, 2012.

The landlord had advertised the unit on 2 popular web sites and had a lot of interest, but as the tenant did not vacate until after the Order of possession was served, the landlord had not been able to confidently offer the unit to an occupant for October 1, 2012. The landlord had to call individuals who had indicated interest and tell them she did not yet have possession of the unit. On September 30, 2012, the landlord was able to sign a tenancy agreement with a new occupant, who took possession on November 1, 2012. That occupant had to give proper Notice to their current landlord.

The landlord has claimed unpaid September, 2012 rent; the tenant confirmed she did not pay September rent.

The tenant questioned the landlords claim for October rent revenue as the landlord did not submit any evidence of advertising.

The landlord claimed the \$100.00 move-in fee imposed by the strata; a term requiring payment of this fee was not included as a term of the tenancy agreement. The tenant pointed to a term which indicated that strata fees were included with rent.

### Analysis

Based on the acknowledgment of the tenant I find, pursuant to section 67 of the Act, that September, 2012 rent was not paid and that the landlord is entitled to compensation the sum of \$1,100.00.

I find that when the tenant failed to pay rent and did not vacate in response to the 10 Day Notice to End Tenancy issued in August 2012, the landlord was required to obtain an Order of possession, which delayed the ability of the landlord to obtain possession and to confidently offer the unit for rent.

I find, based on the testimony of the landlord, that she took steps to mitigate the loss by locating a new occupant within several days of the tenant vacating. I have accepted the landlord's testimony that the unit was advertised and that those advertisements allowed the landlord to mitigate the loss she has claimed by finding a new occupant within a matter of days. It is reasonable that the new occupant would need to provide their current landlord with notice ending their tenancy, which resulted in occupancy of the rental unit effective November 1, 2012.

Therefore, pursuant to section 67 of the Act, I find that the landlord is entitled to compensation in the sum of \$1,100.00 for loss of October 2012, rent revenue.

In the absence of a term of the tenancy requiring a move-in fee to be paid, I find that portion of the landlord's claim is dismissed.

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.

I find that the landlord is entitled to retain the tenant's security deposit in the amount of \$550.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the landlord a monetary Order for \$1,700.00. 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

### Conclusion

The landlord is entitled to compensation in the sum of \$2,200.00.

The claim for a move-fee is dismissed.

The landlord is entitled to retain the deposit.

The landlord is entitled to filing fee costs.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: December 07, 2012.

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Residential Tenancy Branch