



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

MNDC, MNR, MNSD, FF

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss; for a monetary Order for unpaid rent; to keep all or part of the security/pet damage deposit; and to recover the fee for filing this Application for Dispute Resolution.

The Landlord stated that the cheque the Tenant tendered for a security deposit was not honored by his financial institution and that the Tenant never did pay a security or pet damage deposit. As the Tenant did not pay a security deposit or pet damage deposit, the Landlord's claim to retain a security or pet damage deposit is not being considered.

The Landlord stated that she was present on April 13, 2013 when a third party served the Tenant with the Application for Dispute Resolution and Notice of Hearing. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Act*, however the Tenant did not appear at the hearing.

The Landlord submitted documents to the Residential Tenancy Branch which she wishes to rely upon as evidence. She stated that copies of these documents were sent to the rental unit, via registered mail, on June 13, 2013. She stated that the Tenant had vacated the rental unit by June 13, 2013 and that the documents were returned to her by Canada Post.

Documents a party wishes to rely upon as evidence must be served in accordance with section 88 of the *Residential Tenancy Act (Act)*. Section 88 of the *Act* stipulates that a landlord must serve a tenant with an Application for Dispute Resolution in one of the following ways:

- (a) by leaving a copy with the person;
- (c) by sending a copy by mail to the address at which the person resides;
- (d) by sending a copy by mail to a forwarding address provided by the tenant;

- (e) by leaving a copy at the person's residence with an adult who apparently resides with the person;
- (f) by leaving a copy in a mail box or mail slot for the address at which the person resides;
- (g) by attaching a copy to a conspicuous place at the address at which the person resides;
- (h) by transmitting a copy to a fax number provided as an address for service by the person being served; or
- (i) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

The Landlord submitted no evidence to show that the Tenant was personally served with the documents the Landlord wishes to rely upon as evidence and I therefore find that the documents were served in accordance with section 88(a) of the *Act*.

The Landlord submitted no evidence that the documents the Landlord wishes to rely upon as evidence were mailed to the Tenant's current residential address and I cannot, therefore, conclude that the documents were served in accordance with section 88(c) of the *Act*.

The Landlord submitted no evidence that the documents the Landlord wishes to rely upon as evidence were mailed to a forwarding address for the Tenant and I cannot, therefore, conclude that that the documents were served in accordance with section 88(d) of the *Act*.

The Landlord submitted no evidence that the documents the Landlord wishes to rely upon as evidence were left at the Tenant's current residential address and I cannot, therefore, conclude that the documents were served in accordance with section 88(e), 88(f), or 88(g) of the *Act*.

The Landlord submitted no evidence that the documents the Landlord wishes to rely upon as evidence were faxed to the Tenant and I cannot, therefore, conclude that the documents were served in accordance with section 88(h) of the *Act*.

There is no evidence that the director authorized the Landlord to serve the documents the Landlord wishes to rely upon as evidence to the Tenant in an alternate manner, therefore I find that that the documents were not served in accordance with section 88(i) of the *Act*.

The Landlord submitted no evidence to cause me to conclude that the Tenant received the documents the Landlord wishes to rely upon as evidence, therefore I cannot conclude that the documents have been sufficiently served pursuant to sections 71(2)(b) or 71(2)(c) of the *Act*.

As the documents the Landlord wishes to rely upon as evidence were not served to the Tenant in accordance with sections 88 or 71 of the *Act*, I cannot accept them as evidence for these proceedings. Although the Landlord submitted a detailed calculation of her claim for \$3,860.00 with these documents, they were not provided to the Tenant and I cannot rely on those calculations when determining this matter.

The Landlord is seeking a monetary Order in the amount of \$3,860.00 however the Tenant was not served with a detailed calculation that explains the details of the claim. On the basis of the information in the “Details of Dispute” section of the Application for Dispute Resolution, I find it is reasonably apparent that the Landlord is seeking outstanding rent from March and April of 2013. I will therefore consider the Landlord’s claim for unpaid rent for March and April.

The Landlord was advised that only the claim for unpaid rent will be considered at these proceedings and that she retains the right to file another Application for Dispute Resolution seeking compensation for damages to the rental unit; for costs arising from a premature end to the tenancy; and for costs related to cheques that were not honored by the Tenant’s financial institution. I have refused to consider the additional claims pursuant to section 59(5)(a) of the *Act* because the Application for Dispute Resolution did not provide sufficient particulars of the additional claims, as is required by section 59(2)(b) of the *Act*. In reaching this conclusion, I was strongly influenced by the absence of a list of alleged damages that show how much compensation the Landlord is claiming for each damaged item. I find that proceeding with the Landlord’s claim for damages at this hearing would be prejudicial to the Tenant, as the absence of particulars makes it difficult, if not impossible, for the Tenant to adequately prepare a response to the claims.

#### Issue(s) to be Decided

Is the Landlord entitled to compensation for unpaid rent?

#### Background and Evidence

The Landlord stated that the tenancy was to begin on March 01, 2013 but the Tenant was permitted to move in prior to that date with the understanding that he would complete some cleaning and repairs in the rental unit; that the Tenant was obligated to pay monthly rent of \$980.00 by the first day of each month; and that she is not certain when the Tenant vacated the rental unit but it was vacated sometime prior to the end of April of 2013.

The Landlord stated that she collected \$750.00 from the Tenant in March; that she initially believed that \$250.00 of that payment was in compensation for the “hassle” of the Tenant not paying the rent and security deposit when it was due; and that she now believes that the \$750.00 should be applied to the rent that is due.

### Analysis

On the basis of the undisputed evidence, I find that the Tenant was obligated to pay rent of \$980.00 on March 01, 2013 and rent of \$980.00 on April 01, 2013. I find that the Tenant has only paid \$750.00 to the Landlord during this tenancy and I therefore find that the Tenant still owes the Landlord \$1,210.00 in unpaid rent from March and April of 2013.

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

The Landlord has established a monetary claim, in the amount of \$1,260.00, which is comprised of \$1,210.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.

Based on these determinations I grant the Landlord a monetary Order for the amount \$1,260.00. 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: July 02, 2013

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Residential Tenancy Branch