



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with the landlords' application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for money owed or compensation for damage or loss and unpaid rent, for authority to retain the tenant's security deposit, an order of possession for the rental unit due to unpaid rent, and for recovery of the filing fee.

The landlord appeared; the tenant did not appear.

The landlord testified that she served the tenant with her Application for Dispute Resolution and Notice of Hearing by leaving it with the tenant at the rental unit on September 27, 2013.

I find the tenant was served notice of this hearing in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present her evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

*Preliminary issue*-Although the landlord requested an order of possession for the rental unit, since the filing of her application for dispute resolution the tenant has vacated the rental unit; I therefore have excluded her request for such order of possession for the rental unit.

Issue(s) to be Decided

Is the landlord entitled to authority to retain the tenant's security deposit, further monetary compensation and to recover the filing fee?

Background and Evidence

The landlord supplied evidence that this month to month tenancy began on November 1, 2012, monthly rent was \$1050, and the tenant paid a security deposit of \$525 on October 19, 2012.

The landlord stated that the tenant, who lived below the landlord in the lower suite, had vacated the rental unit October 6, 2013, without notice to the landlord, after having not paid the rent for that month.

The landlord submitted that the tenant additionally has a rent deficiency for the year 2013 through September in the amount of \$3600, her monetary claim listed in her application, and her total monetary claim is in the amount of \$4650 for unpaid rent through October and the filing fee of \$50.

The landlord also requested unpaid rent for November 2013.

The landlord submitted a detailed breakdown of the rent owed and the rent paid for the year and the tenancy agreement

Analysis

Under section 26 of the Act, a tenant is required to pay rent in accordance with the terms of the tenancy agreement and is not permitted to withhold rent without the legal right to do so.

In the case before me, the landlord provided undisputed evidence that the tenant from April through October made either partial payments of rent or no payment at all, and through October, the rent deficiency owed by the tenant was \$4650.

I therefore find the landlords are entitled to a monetary award of \$4700, comprised of unpaid rent through October 2013 and the filing fee of \$50.

I have not awarded the landlord monetary compensation for the rent for November and she is at liberty to make another application for dispute resolution seeking further compensation for loss of rent revenue.

### Conclusion

The landlord's application for monetary compensation is granted as she has been granted a monetary award in the amount of \$4700.

At the landlord's request, I direct the landlord to retain the tenant's security deposit of \$525 in partial satisfaction of her monetary award of \$4700, and I therefore grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act in the amount of \$4175, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay, the monetary order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an Order of that Court. The tenant is advised that costs of such enforcement may be recoverable from the tenant.

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* and is being mailed to both the applicant and the respondent.

Dated: November 05, 2013

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Residential Tenancy Branch

