



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding JEWLIE R. MILLIGAN (LANDLORD AGENT)  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR, MNSD

### Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent and to retain the Tenant's security deposit.

The Landlord's agent said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on August 1, 2014. Based on the evidence of the Landlord's agent, 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.

### 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 was to start on February 1, 2014 as a month to month tenancy, but the Tenant did not move in. A tenancy agreement was signed on January 13, 2014 and the Tenant paid a security deposit of \$197.50 in advance of the tenancy. Rent was \$418.00 due on the first day of each month.

The Landlord said that the Tenant signed the tenancy agreement and paid the security deposit, but did not move into the rental unit. As well the Tenant did not pay the February, 2014 rent and so the rental unit was empty for the month of February, 2014. The Landlord said they rented the unit to a new tenant for March 1, 2014.

As a result of the Tenant writing the Landlord a letter on July 18, 2014 requesting his security deposit back and giving the Landlord his forwarding address, the Landlord's agent said she made this application for unpaid rent for February, 2014 in the amount of \$418.00. As well the Landlord said she is requesting to retain the Tenant's security deposit of \$197.50 in partial payment of the unpaid rent.

Analysis

Section 16 of the Act says that the rights and obligations of both the landlord and the tenant start on the day a tenancy agreement is entered into whether or not the tenant occupies the rental unit.

I find the tenancy agreement signed January 13, 2014 is valid and the rights and obligations of the parties commenced as of that date.

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.

Section 45 of the Act says a Tenant may end a periodic term tenancy not earlier than one month prior to the date that rent is payable or with the agreement of the Landlord and the notice must be in writing.

I find the Tenant is responsible for the tenancy as he signed the contract dated January 13, 2014. Whether the Tenant moved into the unit or not the Tenant's rights and obligations started on January 13, 2014. One of these obligations is to pay the rent. I find the Tenant has not paid the February, 2014 rent and the Tenant is responsible for the rent therefore I find for the Landlord and I award the February, 2014 rent of \$418.00 to the Landlord.

Further, I order the Landlord pursuant to s. 38 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:	\$ 418.00	
	Subtotal:		\$ 418.00
Less:	Security Deposit	\$ 197.50	
	Subtotal:		\$ 197.50
	Balance Owing		\$ 220.50

Conclusion

A Monetary Order in the amount of \$220.50 has been issued to the Landlord. A copy of the Order 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*.

Dated: January 28, 2015

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Residential Tenancy Branch

