



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

This matter dealt with an application by the landlord for an Order of Possession pursuant to Section 55 and a Monetary Order for unpaid rent pursuant to Section 67 of the *Act*, for loss or damage under the *Act* or tenancy agreement pursuant to Section 67 of the *Act* and to recover the filing fee for this proceeding. The landlord also applied to keep all or part of the security deposit.

Service of the hearing documents was done in accordance with section 89 of the *Act*. They were sent to the tenant by registered post on April 30, 2009. The tenant confirmed she had received them. At the outset of the hearing the landlord confirmed that the tenant has moved out and as a result they abandoned their application for an Order of Possession.

Both parties appeared, gave their testimony, were provided the opportunity to present evidence, make submissions and to cross-examine the other party. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

### Issues(s) to be Decided

- Are there arrears of rent and if so, how much?
- Is the landlord entitled to a Monetary Order for loss of income?
- Is the landlord entitled to keep all or part of the security deposit and interest?
- Whether the landlord is entitled to a Monetary Order to recover the filing fee?



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## Background and Evidence

This tenancy started on January 01, 2007 and ended on May 31, 2009. Rent was \$994.00 per month payable on the 1<sup>st</sup> of each month. The tenant paid a security deposit of \$462.50 on December 09, 2006. This tenancy was for a fixed term until December 31, 2007 and then reverted to a month to month tenancy. The tenant did not pay rent for April, 2009 and the landlord served the tenant with a 10 day Notice to End the tenancy on April 04, 2009. The tenant did not pay rent for May, 2009.

The tenant testifies that she was on disability and was waiting to be re-housed by British Columbia Housing. She was offered alternative housing around the middle of May, 2009. The tenant states that she told the landlord at this time that she would be moving out on May 31, 2009 she also states that she contacted the Executive Assistant for the landlord and gave her the moving out date.

## Analysis

The tenant does not dispute the rent owed for April and May of \$1,988.00 and the late charges incurred of \$40.00 but does disputes the landlords request to recover a loss of income for June.

The landlords were not able to prepare the suite for the next tenant as the tenant moved out on May 31, 2009 instead of April 14, 2009 as requested in the 10 day Notice.

Therefore, I find that the tenant must pay the landlord the equivalent amount of rent for the month of June to compensate them for their loss of income for this month.

I also find that the landlord is entitled to use the tenants' security deposit as partial payment towards the rent arrears. I also find that the landlord is entitled to recover the



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cost of filing the application of \$50.00 from the tenant. A Monetary Order will be issued as follows:

Rent arrears and late charges for April and May	\$2,028.00
Filing fee	\$50.00
Less security deposit and accrued interest	(-\$476.64)
Total amount owed	\$2,595.36

## Conclusion

A Monetary Order in the amount of **\$2,595.36** has been issued to the landlord and a copy of it must be served on the tenant. If the amount of the order is not paid by the tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: June 04, 2009.

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Dispute Resolution Officer