



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

### Dispute Codes:

MNR, FF

### Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for a monetary Order for unpaid rent 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 a monetary Order for unpaid rent?

Is the landlord entitled to filing fee costs?

### Background and Evidence

The tenancy commenced in 2002, rent was due on the first day of each month. At the end of the tenancy rent was \$705.00 per month.

The parties dispute payment of a \$340.00 deposit; the tenants submit a deposit was paid, the landlord stated he did not receive a deposit. There was no written tenancy agreement.

The tenants sent the landlord written notice ending tenancy, dated October 4, 2010. The landlord's spouse called the tenants and confirmed they were moving out; she acknowledged their notice and testified that she had nothing to do with management of the rental property. The tenants vacated the unit mid-October; the landlord received the keys from a neighbour in early November.

The tenants did not pay rent in September or October; the landlord is claiming unpaid November rent, as a result of the insufficient notice given. The landlord agreed that the home was listed for sale in late November.

The tenants testified that they did not pay the last 2 months rent, as a result of a verbal agreement made in 2005 and 2008; as the tenants had installed a dishwasher and wood stove at their own expense. The tenant could not recall when they had the discussion with the landlord that rent would not be owed toward the end of the tenancy. The landlord denied there was ever such an agreement made, allowing any rent reduction.

The landlord has claimed compensation for unpaid rent for September, October and November, 2010, in the sum of \$2,115.00.

### Analysis

Section 45(1) of the Act provides:

**45 (1)** *A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that*

*(a) is not earlier than one month after the date the landlord receives the notice, and*

*(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.*

I find that the notice given dated October 4, 2010, was effective November 30, 2010. The landlord's spouse acknowledged the tenants were moving, but there is no evidence before me that there was a mutual agreement to end this tenancy. Further, the landlord's spouse did not act as agent for the landlord.

The tenant's submission that there was a verbal agreement made in 2005 and 2008 in relation to rent deductions was not convincing. There is no evidence before me of an agreement that rent would be reduced 5 and 2 years after the time any improvements were made by the tenants and I have not accepted that submission as having any weight.

Therefore, as the tenants failed to provide notice as required by the Act and did not pay rent since August, 2010, I find that the landlord is entitled to unpaid rent for September, October and November, 2010, in the sum of \$2,115.00.

I find that the landlord's application has merit, and I find that the landlord entitled to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Conclusion

I find that the landlord established a monetary claim, in the amount of \$2,165.00 which is comprised of \$2,115.00 in unpaid September, October and November, 2010 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 \$2,165.00. 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: April 28, 2011.

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Residential Tenancy Branch