



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR MNR MNSD MNDC FF

### Preliminary Issues

At the outset of the hearing the Landlord advised that they wished to amend their application to withdraw all claims except for the request to recover the cost of their filing fee. She affirmed that the Tenants vacated the property by December 15, 2012; they paid the November 2012 rent in full; and agreed in writing at the move out for the Landlord to keep the security deposit and interest as payment for the period of December 1 – 15, 2012.

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain a Monetary Order to recover the cost of the filing fee from the Tenants for this application.

The Landlord advised that the female Tenant, H.S. was personally served with both copies of the hearing documents and their evidence on November 30, 2012. Section 88(1) of the *Residential Tenancy Act* and Section 3.1 of the *Residential Tenancy Rules of Procedures* determines the method of service for documents. The Landlord has applied for a monetary Order which requires that the Landlord serve **each** respondent as set out under *Residential Tenancy Rules of Procedures*. In this case only one of the two Tenants has been personally served with the Notice of Dispute Resolution Proceeding documents and evidence. Therefore, I find that the request for a monetary Order against both Tenants must be amended to include only the Female Tenant, H.S. who has been properly served with Notice of this Proceeding. As the second Tenant R.B. has not been properly served the Notice of Dispute Resolution Proceeding documents and evidence as required the monetary claim against the Male Tenant R.B. is dismissed without leave to reapply.

Based on the submission of the Landlord I find that H.S. was sufficiently served notice of this proceeding so I continued in her absence.

### Issue(s) to Be Decided

Should the Landlord be awarded the filing fee?

### Background and Evidence

The Landlord submitted documentary evidence which included, among other things, copies of: the tenancy agreement; a 10 Day Notice issued November 6, 2012; and documents indicating the date of service.

The Landlord confirmed that the Tenant had paid outstanding rent and vacated the property by December 15, 2012. No forwarding address was provided by the Tenants. The Landlord attended the hearing to seek recovery of the cost of the filing fee that they had to pay before the Tenant paid the balance due.

### Analysis

A party who makes an application for monetary compensation against another party has the burden to prove their claim. Awards for compensation are provided for in sections 7 and 67 of the *Residential Tenancy Act*.

In this case the evidence supports that the Tenants failed to pay rent, in accordance with their tenancy agreement, which resulted in the Landlord having to suffer a loss of the cost to file their application for dispute resolution. According, I award the Landlord recovery of the filing fee of **\$50.00**.

### Conclusion

The Landlord has been awarded a Monetary Order in the amount of **\$50.00**. This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be 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: January 09, 2013.

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Residential Tenancy Branch

