



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## DECISION AND REASONS

Dispute Codes: OPR

### Introduction:

This hearing dealt with an application by the landlord seeking an Order of Possession related to non-payment of rent by the tenant. Although the tenant was served with notice of this hearing and the landlord's application by registered mail, he did not appear for the hearing. I consider the tenant to have been served in accordance with the *Act* and I proceeded with the hearing in the tenant's absence.

### Issue to be Determined:

Is the landlord entitled to an Order of Possession due to non-payment of rent?

### Background and Evidence:

In the absence of any evidence from the tenant, I accept the evidence of the landlord that the tenant was served with a 10 day Notice to End Tenancy due to non-payment of rent on November 11, 2008 when it was posted on the door of the tenant's mobile home.

The landlord confirmed that the tenant did not come to pay the outstanding rent until February 2, 2009 and the landlord provided a receipt for "use and occupancy" only and did not reinstate the tenancy.

The landlord seeks an immediate Order of Possession.

### Analysis:

The tenant had five days to either pay the outstanding rent or to file an application to dispute the notice. Having failed to exercise either of these rights the tenant is conclusively presumed to have accepted the end of the tenancy pursuant to section 39(5) of the *Act*.

On this basis I grant the landlord's request for an Order of Possession effective **two (2) days** after the Order is served upon the tenant. This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

### Conclusion:

I grant the landlord's request for an Order of Possession on the basis that the tenant failed to pay rent and failed to exercise his rights to dispute a notice to end tenancy.

Dated February 12, 2009.

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Dispute Resolution Officer