



# Dispute Resolution Services

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

## DECISION AND REASONS

### Dispute Codes

OPR, CNR, MNR, MNSD, FF

### Introduction

This hearing dealt with cross applications by the parties. The landlord seeks an Order of Possession and a monetary claim related to non-payment of rent by the tenant. The tenant seeks additional time to dispute the 10 day Notice to End Tenancy and to have the tenancy continue.

### Issues to be Determined:

Should the 10 day Notice to End Tenancy due to non-payment of rent be upheld? Does the tenant have exceptional circumstances which would allow for additional time to dispute the notice? Has the landlord established a monetary claim related to non-payment of rent?

### Background and Evidence

This tenancy began on approximately October 1, 2007 for the monthly rent of \$1,000.00. The current month rent is \$1,050.00. The tenant paid a security deposit of \$500.00 on October 1, 2007.

On January 9, 2009 the tenant was served with a 10 day Notice to End Tenancy due to non-payment of rent. The tenant paid portions of the rent owed on January 24, 2009 and February 4, 2009. For each of these payments the tenant was issued a receipt for "use and occupancy only" which meant that the tenancy was not reinstated.

The landlord seeks an Order of Possession effective **March 31, 2009 at 1:00 p.m.** The tenant seeks to have the notice set aside or alternatively for more time to seek a new residence.

The tenant did not have any exceptional reasons for failing to dispute the 10 day Notice to End Tenancy. The tenant simply stated that she was working and unable to respond to the notice in the timeframe provided under the *Act*.

### Analysis

I grant the landlord's application and I dismiss the tenant's application. I am satisfied that the tenant received the 10 day Notice to End Tenancy in person on January 9,

2009 and that the tenant failed to either pay the outstanding rent in five days or file an application to dispute the notice in five days. As a result, pursuant to section 46(5) of the *Act* the tenant is conclusively presumed to have accepted the end of the tenancy.

Although the tenant has paid the rental arrears as of the date of this hearing the landlord's did not reinstate the tenancy by accepting the rent money for use and occupancy only.

I am also satisfied that there were no exceptional circumstances, such as hospitalization, which prevented the tenant from exercising her rights under the *Act*. As a result I deny the tenant's request for additional time to dispute the 10 day Notice to End Tenancy.

I grant the landlord an Order of Possession effective **March 31, 2009 at 1:00 p.m.** This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

### Conclusion

I dismiss the tenant's application. I have accepted the landlord's application and issued an Order of Possession. I also grant the landlord's request to recover the \$50.00 filing fee paid for this application from the tenant by deducting it from the tenant's security deposit.

Dated March 06, 2009.

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Dispute Resolution Officer