



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION AND REASONS

### Dispute Codes

OPR, MNR, MNSD, & FF

### Introduction

This hearing dealt with an application by the landlord seeking an Order of Possession and a monetary claim due to non-payment of rent by the tenant. The landlord also requests to retain the tenant's security deposit plus interest in partial satisfaction of this claim. Both parties appeared for the hearing and were provided the opportunity to be heard and respond to the evidence of the other party.

### Issues to be Determined

Should the tenancy be ended due to the tenant's failure to pay rent? Has the landlord established a monetary claim due to non-payment of rent?

### Background and Evidence

This tenancy began on December 1, 2008 for the monthly rent of \$790.00 and a security deposit of \$395.00. The tenant failed to pay rent for February 1, 2009 and the landlord served the tenant a 10 day Notice to End Tenancy on February 2, 2009. Since that time the tenant has also failed to pay any rent for March and April, 2009.

The tenant does not dispute that she has failed to pay rent. The tenant only requested that the tenancy be allowed to continue to April 30, 2009.

The landlord requested 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 46(5) of the *Act*.

On this basis, and due to the tenant's continued breach of the tenancy agreement, I grant the landlord an Order of Possession effective **two (2) days** after it is served upon the tenant. This Order may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

I also find that the landlord has established a total monetary claim for the sum of **\$2,420.00** comprised of outstanding rent owed for February, March and April, 2009 for the sum of \$2,370.00 plus the recovery of the \$50.00 filing fee paid for this application.

From this sum I Order that the landlord may retain the tenant's security deposit plus interest of \$395.50 in partial satisfaction of this claim.

I grant the landlord a monetary Order for the remaining balance owed of **\$2,024.50**. This Order may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

### Conclusion

The landlord's application is granted on the basis that the tenant breached the tenancy agreement and *Act* by failing to pay rent owed.

Dated April 22, 2009.

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Dispute Resolution Officer