



# Dispute Resolution Services

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

## Decision

Dispute Codes: OPR, MNR, MND, FF

## Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent, for damages to the rental unit and to recover the filing fee for this proceeding.

The Landlord served the Tenants in person and by registered mail on February 17, 2009 with a copy of the Application and Notice of Hearing. I find that the Tenants were properly served pursuant to s. 89 of the Act with notice of this hearing and the hearing proceeded in their absence.

## Issue(s) to be Decided

1. Is the Landlord entitled to end the tenancy?
2. Are there arrears of rent and if so, how much?
3. Is the Landlord entitled to compensation for damages to the rental unit?

## Background and Evidence

This tenancy started on November 1, 2008. Rent is \$650.00 per month payable on the 1<sup>st</sup> day of each month. The Landlord said the Tenants did not pay rent for February, 2009 when it was due and as a result on February 4, 2009, he posted a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities dated February 4, 2009 on the Tenants' door and also sent it to them by registered mail. The Landlord said the Tenants have paid nothing since they were served with the Notice and are now in arrears of rent for February and March, 2009.

## Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must either pay the amount set out on the Notice or apply for dispute resolution. If a Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted

that the tenancy ends on the effective date of the Notice and must vacate the rental unit at that time. Under s. 90 of the Act, the Tenants are deemed to have received the Notice to End Tenancy (at the latest) 5 days after it was mailed, or on February 9, 2009. Consequently, the Tenants would have had to pay the amount on the Notice or apply to dispute that amount within 5 days, or no later than February 14, 2009.

I find that the Tenants have not paid the amount indicated on the Notice and have not applied for dispute resolution. Consequently, pursuant to section 46(5) of the Act, the Tenants are conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice or on February 19, 2009. The Landlord requested and I find pursuant to s. 55(2)(b) of the Act that he is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenants. I also find that the Landlord is entitled to recover rent arrears for February and March, 2009 in the amount of **\$1,300.00** as well as the **\$50.00** filing fee for this proceeding.

### Conclusion

An Order of Possession effective 48 hours after service of it on the Tenants and a Monetary Order in the amount of **\$1,350.00** have been issued to the Landlord and a copy of the Orders must be served on the Tenants. The Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia. The Landlord's application for damages to the rental unit is dismissed with leave to re-apply.