



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes      OPR, MNR, FF

### Introduction

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

The Landlord said he served the Tenants in person on May 13, 2009 with a copy of the Application and Notice of Hearing. Based on this evidence, I find that the Tenants were served as required by s. 89 of the Act and the hearing proceeded in the Tenants' absence.

### Issues(s) to be Decided

1. Is the Landlord entitled to end the tenancy?
2. Are there arrears of rent and if so, how much?

### Background and Evidence

This month to month tenancy started approximately one and a half years ago. Rent is \$600.00 per month payable on the first day of each month. The Landlord said the Tenants did not pay rent in full for March and did not pay rent for April 2009 when it was due and as a result, he served the Tenants in person on April 20, 2009 with a 10 Day Notice to End Tenancy for Unpaid Rent dated April 20, 2009. The Landlord claims that the Tenants have not paid anything since being served with the Notice and are now in arrears of rent for May and June, 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. 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 April 27, 2009 (as the 25<sup>th</sup> fell on a Saturday).



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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), the Tenants are conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice, or on April 30, 2008.

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 immediately. I also find that the Landlord is entitled to recover rent arrears of \$450.00 for March 2009, \$600.00 for each of April and May 2009 and pro rated rent for 19 days for June, 2009 of \$380.00 for a total of \$2,030.00. As the Landlord has been successful in this matter, he is also entitled to recover the \$50.00 filing fee for this proceeding.

## Conclusion

An Order of Possession to take effect immediately and a Monetary Order in the amount of **\$2,080.00** 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.

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: June 19, 2009.

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Dispute Resolution Officer