



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### Dispute Codes:

MNR, MNDC, FF

### Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for a monetary Order for unpaid rent, damages or loss and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that on February 23, 2010 copies of the Application for Dispute Resolution and Notice of Hearing were personally served to the tenant, at the rental unit address, in the evening, with a witness present.

These documents are deemed to have been served in accordance with section 89 of the Act; however the tenant did not appear at the hearing.

### Preliminary Matter

The Application was amended to include unpaid March and April, 2010 rent.

### Issue(s) to be Decided

Is the landlord entitled to a monetary Order for unpaid rent?

Is the landlord entitled to a monetary Order for damages or loss?

Is the landlord entitled to filing fee costs?

### Background and Evidence

This tenancy commenced 6 or 7 years ago. Rent is currently \$1,500.00 per month, due by the first day of each month. A deposit in the sum of \$750.00 was paid at the start of the tenancy.

The landlord stated that on January 14, 2010 a ten (10) day Notice to End Tenancy for non-payment of rent, which had an effective date of January 24, 2010 was personally served by the landlord to the tenant at the rental unit address in the evening, with a friend of the landlord's present as a witness. The Notice indicated that the Notice would be automatically cancelled if the landlord received **\$5,910.00** within five days after the tenant is assumed to have received the Notice. The Notice also indicated that the tenant is presumed to have accepted that the tenancy is ending and that the tenant must move out of the rental by the date set out in the Notice unless the tenant filed an Application for Dispute Resolution within five days.

During the hearing the landlord indicated that he was not concerned about a monetary Order but wished to pursue the Order of possession. The landlord did not withdraw his request for a monetary Order, but could not provide any details in relation to rent payments made prior to January 2010, and how the landlord obtained the sum indicated on the Notice to End Tenancy issued on January 14, 2010; outside of unpaid January rent. The landlord testified that the tenant has not paid rent at any time during 2010, in the sum of \$6,000.00 for January to April, inclusive.

### Analysis

In the absence of evidence to the contrary, I find that the tenant was served with a Notice to End Tenancy that required the tenant to vacate the rental unit on January 24, 2010, pursuant to section 46 of the Act.

Section 46 of the Act stipulates that a tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me I have no evidence that the tenant exercised either of these rights and, pursuant to section 46(5) of the Act, I find that the tenant accepted that the tenancy has ended. On this basis I will grant the landlord an Order of Possession that is effective two days after service to the tenant.

In the absence of evidence to the contrary, I find that the tenant has not paid rent in the amount of \$6,000.00 for January to April 2010, inclusive. As the landlord could not

provide a breakdown or any details of the amount claimed prior to January, 2010, I dismiss without leave to reapply, any amount owed prior to January 2010.

I find that the landlord's application has merit and that the landlord is entitled to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The landlord has not applied to retain the deposit paid by the tenant. Any deposit held in trust by the landlord must be disbursed as required by section 38 of the Act.

### Conclusion

The landlord has been granted an Order of Possession that is effective two days after the notice has been served. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim, in the amount of \$6,050.00, which is comprised of \$6,000.00 in unpaid January, February, March and April, 2010, rent and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

Based on these determinations I grant the landlord a monetary Order in the sum of **\$6,050.00**. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

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: April 12, 2010.

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Dispute Resolution Officer