



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent; a Monetary Order for unpaid rent or utilities and to keep all or part of the security deposit; and to recover the filing fee associated with this application.

The landlord participated in the hearing and provided affirmed testimony. He testified that he served the tenant in person with the Notice of a Dispute Resolution Hearing on February 8<sup>th</sup>, 2011. The tenant did not participate and the hearing proceeded in the tenant's absence.

### Issue(s) to be Decided

Is the landlord entitled to keep all or part of the security deposit?

Is the landlord entitled to a Monetary Order, and if so for what amount?

Is the landlord entitled to recover the filing fee?

### Background and Evidence

The rental unit consists of a basement suite in a single detached home. Pursuant to a written agreement, the month to month tenancy started on December 1<sup>st</sup>, 2010.

The monthly rent was \$530.00 and the tenant paid a security deposit in the amount of \$265.00.

The landlord testified that the tenant has not paid rent for January and February 2011. He stated that he served the tenant with a 10 Day Notice to End Tenancy by posting the notice on the tenant's door on January 13<sup>th</sup>, 2010. The landlord also stated that when he served the tenant with the Notice of Dispute Resolution on February 8<sup>th</sup>, the tenant appeared unresponsive and has avoided contact with the landlord since.

### Analysis

Section 46(5) of the *Residential Tenancy Act* provides that if a tenant who has received a notice to end tenancy for non-payment of rent does not pay the rent or makes an application for dispute resolution within 5 days, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. The tenant in this matter has not filed an application for dispute resolution.

I accept the landlord's undisputed testimony that he served the tenant with the Notice of Dispute Resolution in a proper manner pursuant to the *Residential Tenancy Act*. I find that the tenant knew, or ought to have had knowledge of the date scheduled for this hearing. Based on the available evidence I find that the landlord is entitled to an Order of Possession and a Monetary Order for the full amount.

### Conclusion

I grant the landlord an Order of Possession effective two days from the date the order is served upon the tenant. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The landlord has established a claim for unpaid rent for January and February 2011 in the amount of \$1060.00. I authorize the landlord to retain the tenant's \$265.00 security deposit for a balance of \$795.00. Since he was successful, I award the landlord recovery of the \$50.00 filing fee. Pursuant to Section 67 of the Act, I grant the landlord a Monetary order totalling \$845.00. This Order may be registered in the 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: February 21, 2011.

---

Residential Tenancy Branch