

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. Despite having been served with the application for dispute resolution and notice of hearing by registered mail on February 17, the tenant did not participate in the conference call hearing.

### Issues to be Decided

Is the landlord entitled to an order of possession?  
Is the landlord entitled to a monetary order for unpaid rent?

### Background and Evidence

The landlord's undisputed evidence is as follows. The tenant is obligated to pay rent in the amount of \$850.00 in advance on the first day of each month. The tenant failed to pay rent in the month of February and on February 2 the landlord personally served the tenant with a notice to end tenancy. The tenancy agreement provides that the tenant is obligated to pay a \$50.00 late fee if rent is not paid on the first day of the month.

### Analysis

I accept the landlord's undisputed testimony and I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As for the monetary order, I find that the tenant failed to pay rent in the month of February and I find that the landlord is entitled to recover these arrears. The landlord is also entitled to recovery of the \$50.00 filing fee. I dismiss the claim for the \$50.00 late payment fee as it violates section 7(1)(d) of the Residential Tenancy Regulations which limits such a fee to \$25.00. I grant the landlord an order under section 67 for \$900.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The landlord is granted an order of possession and a monetary order for \$900.00.

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 28, 2011

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Residential Tenancy Branch