



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      OPR, OPB, MNR, MNSD, MNDC, FF

### Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent and for the tenant's breach of an agreement with the landlord; a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, for unpaid rent, and to keep the security deposit; and to recover the filing fee associated with this application.

The landlord participated in the hearing and provided affirmed testimony. She testified that he served the Notice of a Dispute Resolution Hearing to the tenant in person on March 15<sup>th</sup>, 2011 in the presence of a witness. The tenant did not participate and the hearing proceeded in the tenant's absence.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

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

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

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 October 1<sup>st</sup>, 2010. The monthly rent of \$700.00 was payable on the first of each month. The tenant paid a security deposit of \$350.00.

The landlord testified that the tenant was short \$125.00 for rent paid in December 2010 and January 2011. She stated that the tenant paid no rent for February and March 2011, and that she posted a 10 Day Notice to End Tenancy on the tenant's door on March 3<sup>rd</sup>, 2011. The landlord said that she tenant slipped a hand written note under her door this morning, stating that she would be out of the unit by April 2<sup>nd</sup>, 2011. The landlord said that the tenant previously apologized for not paying rent, and told her that she would pay the arrears when she sells her car. The landlord said that to date the tenant has not reimbursed any money owed. The landlord submitted a monetary claim as follows:

- Unpaid rent for December 2010:       \$ 125.00.
- Unpaid rent for January 2011:       \$ 125.00.
- Unpaid rent for February 2011:       \$ 700.00
- Unpaid rent for March 2011:       \$ 700.00
- Total:                               \$1650.00

### 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 am satisfied that the tenant had knowledge of the date scheduled for this hearing. I accept the landlord's undisputed evidence regarding the unpaid rent and 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 established a claim of \$1650.00. I authorize the landlord to retain the tenant's \$350.00 security deposit for a balance owing of \$1300.00. Since the landlord 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 \$1350.00. 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: March 31, 2011.

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Residential Tenancy Branch