



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession for unpaid rent, a monetary order for unpaid rent, to keep all or part of the security deposit and recovery of the filing fee. Both parties participated in the conference call hearing.

### Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

### Background and Evidence

On February 22, 2011 the landlord served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent.

The landlord's agent testified that the tenants paid the February 2011 and March 2011 rent on March 4, 2011 but the cheque was returned 'non sufficient funds. To date the tenants owe the landlord \$2600.00 in unpaid rent.

As the tenants still occupy the rental unit and have made no efforts to pay the rent that is due, the landlord has requested an order of possession effective 2 days after service on the tenants.

The tenant testified that he did owe the landlord \$2600.00 in unpaid rent and that he wished to make arrangements to pay the monies due the landlord. The tenant and landlord, outside of this hearing may make arrangements for a payment plan and both parties were advised to ensure that any agreement made should be in writing. The tenant advised the landlord in this hearing that they would vacate the rental unit by the end of today and both parties understand that a move-out inspection should take place.

### Analysis

Based on the documentary evidence and testimony I find that the tenant was properly 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.

I find that the landlord has established a claim for \$2600.00 in unpaid rent.

The landlord is entitled to recovery of the \$50.00 filing fee.

### Conclusion

I hereby grant the Landlord an **Order of Possession**, effective **2 days** after service of the Order upon the Tenants. This Order must be served on the Tenants and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim for \$2600.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I order the landlord pursuant to s. 38(4) of the Act to keep the tenant's \$650.00 security deposit in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of **\$2000.00** ( $\$2600.00 + \$50.00 = \$2650.00 - \$650.00 = \$2000.00$ )

A monetary order in the amount of **\$2000.00** has been issued to the landlord and a copy of it must be served on the tenant. If the amount is not paid by the tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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 15, 2011.

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Residential Tenancy Branch