



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, 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, a monetary order for compensation for damage or loss, 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.

### Summary of Background and Evidence

This tenancy began March 15, 2010 with monthly rent of \$850.00, the tenants paid a security deposit of \$425.00. On March 2, 2011 the landlord served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent.

The landlord testified that the tenants have not paid the rent or late fees for March 2011 or April 2011 and that the tenants currently owe the landlord \$1700.00 in unpaid rent and \$50.00 in late fees for a total of \$1750.00 owing the landlord. The landlord in this application is seeking a monetary order for the unpaid rent and late fees and an order of possession for unpaid rent.

The tenant testified that he will have all the money owed the landlord by April 22, 2011 and requested to be able to pay all monies owed on April 22, 2011 and remain in the tenancy.

The landlord and tenant discussed in this hearing, the possibility for the tenant to remain in the tenancy if all monies were paid and an agreement was reached between the parties. The landlord has requested an order of possession to take effect at 1:00PM April 23, 2011 which will allow the tenant time to pay the monies due. The landlord has also requested a monetary order for \$1800.00 which is comprised of the unpaid rent, late fees and filing fee to bring this application forward. The tenant understands that if the rent is not paid in full on April 22, 2011 that the landlord will serve the tenant with the

order of possession for 1:00PM April 23, 2011 and file the monetary order for recovery of the monies due to the landlord.

### 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. The landlord in this hearing is willing to allow the tenant time to pay the monies due and has requested an order of possession dated 1:00PM April 23, 2011.

I find that the landlord has established a claim for \$1750 in unpaid rent and late fees.

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

### Conclusion

I hereby grant the landlord an **Order of Possession** effective not later than **1:00 PM, April 23, 2011**. 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 \$1750.00 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 \$425.00 security deposit in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of **\$1375.00** ( $\$1750.00 + \$50.00 = \$1800.00 - \$425.00 = \$1375.00$ )

A monetary order in the amount of **\$1375.00** 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: April 5, 2010

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Residential Tenancy Branch