



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      OPR, MND, 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 damage to the unit, a monetary order for unpaid rent or utilities, to keep all or part of the security deposit and recovery of the filing fee. The landlord participated in the conference call hearing but the tenant did not. The landlord presented evidence that the tenant was served with the application for dispute resolution and notice of hearing documents. I found that the tenant had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence.

### 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 approximately four years ago with monthly rent of \$675.00 and the tenant paid a \$337.50 security deposit. The landlord testified that the rental unit was originally occupied by the tenant's mother but that she had vacated last fall with the tenant continuing the tenancy. On February 2, 2011 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid rent.

The landlord stated that the tenant owes \$1100.00 in unpaid rent from 2010 and that the tenant has not paid rent for the months of January, February, march and April 2011. The landlord stated that the tenant currently owes the landlord a total of \$3800.00 in unpaid rent.

The landlord stated that she had gone to the rental unit on numerous occasions to talk to the tenant and that the tenant kept telling the landlord that he would be vacating the rental unit. The landlord stated that she went to the rental unit on April 24, 2011 and that it appeared that the tenant had abandoned the rental unit. The landlord testified that the tenant had changed the locks, left the rental unit full of trash and discarded items and had caused extensive damage throughout the unit.

The landlord stated that they had packed up anything of value left behind by the tenant and currently have the items in storage in the garage should the tenant return for them.

As the landlord is not sure if the tenant has completely vacated or abandoned the rental unit the landlord is seeking an order of possession for the rental unit in this application. The landlord is also seeking \$3800.00 in compensation for unpaid rent.

### 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 \$3800.00 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 **1 day** 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 \$3800.00 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 \$337.50 security deposit in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of **\$3512.50** ( $\$3800.00 + \$50.00 = \$3850.00 - \$337.50 = \$3512.50$ )

A monetary order in the amount of **\$3512.50** 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 27, 2010

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Residential Tenancy Branch