



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

### Dispute Codes:

**OPR, MNR, FF**

### Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The Agent for the landlord provided affirmed testimony that on March 18, 2011, copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenant via registered mail at the address noted on the Application. A Canada Post tracking number and receipt was provided as evidence of service. The landlord checked the Canada Post web site this morning and noted that the tenant had yet to retrieve the registered mail.

These documents are deemed to have been served in accordance with section 89 of the Act; however the Tenant did not appear at the hearing.

### Issue(s) to be Decided

Is the landlord entitled to an Order of possession for unpaid rent?

Is the landlord entitled to a monetary Order?

Is the landlord entitled to filing fee costs?

### Background and Evidence

The tenancy commenced on March 1, 2010, rent was \$650.00 per month and was increased to \$695.00 at one point in the first year. No evidence of written agreement to a rent increase or a Notice of Rent Increase as provided by the Act was supplied as evidence. The landlord confirmed that rent owed would remain at \$650.00 per month.

A copy of the written tenancy agreement was submitted as evidence.

The landlord stated that on March 7, 2011 a ten (10) day Notice to End Tenancy for non-payment of rent, which had an effective date of March 13, 2011, was served by posting to the tenant's door at approximately 3 p.m. with the caretaker present as a witness.

The Notice indicated that the Notice would be automatically cancelled if the landlord received \$2,947.56 within five days after the tenant is assumed to have received the Notice. The Notice also indicated that the tenant is presumed to have accepted that the tenancy is ending and that the tenant must move out of the rental by the date set out in the Notice unless the tenant filed an Application for Dispute Resolution within five days.

The landlord provided copies of the tenant ledger dating from the beginning of the tenancy. The tenant last had a zero balance owed on April 4, 2010. Since May, 2010, the tenant has made payments totaling \$4,605.00. From May 2010, to April, 2011, the tenant owed \$650.00 per month; totaling \$7,800, for a balance owed in the sum of \$3,195.00.

### Analysis

Section 90 of the Act stipulates that a document that is posted on a door is deemed to be received on the third day after it is posted. I therefore find that the tenant received the Notice to End Tenancy on March 10, 2011.

Section 46(1) of the Act stipulates that a 10 Day Notice to End Tenancy is effective ten days after the date that the tenant receives the Notice. As the tenant is deemed to have received this Notice on March 10, 2011, I find that the earliest effective date of the Notice is March 20, 2011.

Section 53 of the Act stipulates that if the effective date stated in a Notice is earlier than the earliest date permitted under the legislation, the effective date is deemed to be the earliest date that complies with the legislation. Therefore, I find that the effective date of this Notice to End Tenancy was March 20, 2011.

In the absence of evidence to the contrary, I find that the tenant was served with a Notice to End Tenancy that required the tenant to vacate the rental unit on March 20, 2011, pursuant to section 46 of the Act.

Section 46 of the Act stipulates that a tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me I have no evidence that the tenant exercised either of these rights, therefore; pursuant to section 46(5) of the Act, I find that the tenant accepted that the tenancy has ended. On this

basis I will grant the landlord an Order of Possession that is effective 2 days after the Notice is served to the tenant.

In the absence of evidence to the contrary, I find that the tenant has not paid rent in the amount of \$3,195.00 between May 2010, and April 2011, and that the landlord is entitled to compensation in that amount.

I find that the landlord's application has merit and that the landlord is entitled to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

### Conclusion

The landlord has been granted an Order of Possession that is effective 2 days after service to the tenant. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim, in the amount of \$3,245.00, which is comprised of unpaid rent from May 2010, to April, 2011 inclusive and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

Based on these determinations I grant the landlord a monetary Order in the sum of \$3,195.00. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Dated: April 07, 2011.

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