



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent; a Monetary Order for unpaid rent; and to recover the filing fee associated with this application.

T.F., the landlord's property manager, participated in the hearing and provided affirmed testimony. She testified that she served the Notice of a Dispute Resolution Hearing to one of the tenants in person on March 17<sup>th</sup>, 2011. The tenants 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 recover the filing fee?

### Background and Evidence

The rental unit consists of a three bedroom townhouse. T.F. could not produce a written tenancy agreement however she testified that the tenants have been at the rental unit since she took over as property manager in November 2009. She stated that the monthly rent of \$720.00 was payable on the first of each month and that the tenants paid a security deposit in the amount of \$360.00.

She stated that the tenants have not paid rent for the past 2 1/2 months. In her documentary evidence, T.F. produced a copy of the 10 Day Notice to End Tenancy that she served on the tenants on March 3<sup>rd</sup> 2011. T.F.

T.F. made an updated monetary claim for unpaid rent as follows:

- January 2011: \$ 440.00
- February 2011: \$ 720.00
- March 2011: \$ 720.00
- April 2011: \$ 720.00
- Total: \$2600.00

### Analysis

I accept the property manager's undisputed testimony that she served the tenants with the Notice of Dispute Resolution in a proper manner pursuant to section 89 of the *Residential Tenancy Act*. I find that the tenants knew, or ought to have had knowledge of the date scheduled for this hearing.

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.

Accordingly I find that the landlord is entitled to a monetary order. Based on the property manager's testimony, I also find that the landlord is entitled to a monetary order for unpaid rent as claimed.

Conclusion

I grant the landlord an Order of Possession effective two days from the date the order is served upon the tenant.

If necessary, This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

Since the landlord was successful, the landlord is entitled to recover the \$50.00 filing fee for a claim totalling \$2650.00. I authorize the landlord to keep the tenants' \$360.00 security deposit and pursuant to Section 67 of the Act, I grant the landlord a monetary order for the balance of \$2290.00.

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: April 05, 2011.

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Residential Tenancy Branch