



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPR, MNR, MNDC and FF

### **Introduction**

This application was brought by the landlord on March 17, 2011 seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served by posting on the tenant's door on March 2, 2011. The landlord also sought a Monetary Order for the unpaid rent, loss of rent, late fees and recovery of the filing fee for this proceeding.

Despite having been served with the Notice of Hearing sent by registered mail on March 21, 2011, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

At the commencement of the hearing, the landlord advised that she had found the rental unit abandoned on March 27, 2011 and that the Order of Possession was no longer required.

### **Issues to be Decided**

This application requires a decision on whether the landlord is entitled to a Monetary Order for the unpaid rent, loss of rent, late fees and recovery of the filling fee for this proceeding.

### **Background and Evidence**

This tenancy began on December 1, 2008. Rent was \$895 per month and the landlord holds a security deposit of \$447.50 and a pet damage deposit of \$100, both paid on November 11, 2008.

During the hearing, the landlord gave evidence that Notice to End Tenancy had been served when the tenant had a rent shortfall of \$625.16 from the rent due on March 1, 2011. The landlord claims the unpaid shortfall plus \$20 late fee as per the rental agreement.

In the interim, the tenant vacated the rental unit some time before March 27, 2011 without having given written Notice to End Tenancy at least one month in advance as required under section 45 of the *Act*. The landlord stated that the rental unit had been left in need of remediation that made it impossible to find new tenants for April 2011. Therefore, the landlord claims loss of rent for April 2011 plus the \$20 late fee.

## Analysis

Section 26 of the *Act* provides that tenants must pay rent when it is due. Section 46 of the *Act* provides that a landlord may issue a Notice to End Tenancy for unpaid rent on a day after the rent is due. The tenant may cancel the notice by paying the overdue rent or make application to dispute the notice within five days of receiving it.

In this instance, I find that the tenant did not make application to dispute the notice and I accept the evidence of the landlord that she did not pay the full rent within five days of receiving the notice.

I further accept the evidence of the landlord that the tenant did not give Notice to End Tenancy as required under section 45 of the *Act* and I find, therefore, that the tenant is responsible for the loss of rent for April 2011. However, as the April award is for loss of revenue, I decline to add the late fee as, in fact, the tenancy had ended in March 2011 pursuant to the landlord's notice of March 2, 2011.

Thus, I find that tenant owes the landlord an amount calculated as follows:

Rent shortfall for March 2011	\$625.16
Late fee for March 2011	20.00
Loss of rent for April 2011	895.00
Filing fee	<u>50.00</u>
<b>TOTAL</b>	<b>\$1,590.16</b>

## **Conclusion**

The landlords' copy of this decision is accompanied by a Monetary Order for **\$1,590.16** enforceable through the Provincial Court of British Columbia, for service on the tenant.

The landlord remains at liberty to make application for damages ascertained at the conclusion of the tenancy.

April 7, 2011