



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on May 10, 2011. Based on the evidence of the Landlord, I find that the Tenant were served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

### Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Are there rent arrears and if so, how much?
3. Is the Landlord entitled to compensation for unpaid rent and if so how much?

### Background and Evidence

This tenancy started on October 8, 2010 as a fixed term tenancy with an expiry date of October 31, 2011. Rent is \$850.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$425.00 on October 14, 2010.

The Landlord said that the Tenant did not pay a total of \$1,350.00 of rent for March and April, 2011 when it was due and as a result, on April 6, 2011 he posted a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated April 6, 2011 on the door of the Tenant's rental unit. The Landlord continued to say the Tenant has now paid down the rent arrears so that he now owes \$550.00 for March and April, 2011, he has paid the full May rent and he has not paid the June, 2011 rent of \$850.00. The Landlord said the total amount of unpaid rent is \$1,400.00.

The Landlord further indicated that the Tenant is living at the rental unit and the Landlord does not know what the Tenant's plans are. The Landlord said they had made a payment plan with the Tenant, but the Tenant was not able to make the payments.

The Landlord requested an Order of Possession at the earliest possible date and a monetary order for \$1,400.00 representing the unpaid rent.

Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must pay the overdue rent or apply for dispute resolution. If the Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy 3 days after it was posted, or on April 9, 2011. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than April 14, 2011.

I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

I also find that the Landlord is entitled to recover unpaid rent for March, 2011, in the amount of \$350.00 and April, 2011 in the amount of \$200.00 and the unpaid rent for June, 2011 in the amount of \$850.00.

As the Landlord has been successful in this matter he will receive a monetary order for the balance owing as following:

Rent arrears:	\$1,400.00	
Subtotal:		\$1,400.00
Balance Owing		\$1,400.00

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$ 1,400.00 have been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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*.

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Residential Tenancy Branch