



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR

### Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent.

The landlord participated in the hearing and provided affirmed testimony. She testified that she served the Notice of a Dispute Resolution Hearing to the tenants by way of personal service on October 22<sup>nd</sup>, 2011. None of the tenants participated and the hearing proceeded in the tenants' absence.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

### Background and Evidence

The rental unit consists of the upper level of a single detached home. Pursuant to a written agreement, the tenancy started on February 1<sup>st</sup>, 2011. The rent is \$1250.00 per month and the tenant paid a security deposit of \$625.00.

The landlord testified that tenant W.C. stated that he hoped that he would have the rent arrears paid by the date of the hearing, however the tenants continue to owe \$50.00 for October and full rent for November 2011.

In her documentary evidence, the landlord provided a copy of the 10 Day Notice to End Tenancy dated October 3<sup>rd</sup>, 2011, which she states that she served by delivering in the tenants' mailbox on October 5<sup>th</sup>, 2011.

### Analysis

I accept the landlord'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 tenants in this matter have not filed an application for dispute resolution. The landlord had sufficient grounds to issue the notice to end tenancy and on that basis the landlord is entitled to an Order of Possession.

### Conclusion

I grant the landlord an Order of Possession effective two days from the date the order is served upon the tenants. This Order may be filed in the Supreme 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: November 14, 2011.

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Residential Tenancy Branch