



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **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.

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 registered mail sent on March 28, 2012, and provided a Canada Post tracking number. 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 townhouse. Pursuant to a written agreement, the tenancy started on November 1, 2011. The rent current is \$1065.00 per month and the tenants did not pay a security deposit.

The landlord testified that the tenants did not pay rent for February, March and now April 2012, and suspects that the tenants may have abandoned the unit. In her documentary evidence, the landlord provided a copy of the 10 Day Notice to End Tenancy served on the tenants on March 7, 2012 by posting the notice on the tenants' door. The landlord said that she has had no contact with the tenants since that time.

The landlord submitted a claim for 3 months of unpaid rent totalling \$3195.00.

### 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's Notice to End Tenancy is valid and on that basis the landlord is entitled to an order of possession.

Based on the evidence I also accept that the tenants did not pay rent and that if they in fact abandoned the unit, they did so without giving the landlord proper notice. I find that the landlord is entitled to recover the loss of rental income as claimed.

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.

The landlord established a claim of \$3195.00. Since the landlord was successful, I award the landlord recovery of the \$50.00 filing fee. Pursuant to Section 67 of the Act, I grant the landlord a Monetary Order totalling \$3245.00.

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 18, 2012.

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Residential Tenancy Branch