



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR and FF

### Introduction

This hearing was convened on an application by the landlord dated March 23, 2012 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 February 8, 2012.

### Issue(s) to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession and a Monetary Order as requested.

### Background and Evidence

This tenancy began on October 1, 2009. Rent is \$611 per month.

During the hearing, the landlord submitted into evidence a copy of the tenant's account ledger, a number of Notices to End Tenancy, and warning letters addressing late or unpaid rent.

Evidence submitted by the landlord showed that the tenant had rent arrears of \$2,364 when the Notice to End Tenancy of February 10, 2012 was served and the tenant concurred that her account is currently in arrears by \$2,236.

The parties had signed a repayment agreement on February 21, 2012 in which the tenant acknowledged indebtedness off \$2,275 and agree to begin repayment on March 1, 2012 at a rate of \$39 per month, continuing until the debt was repaid.

The landlord stated that the March 2012 payment had not been paid until March 8, 2012 and that he had not received the payment for April 2012, although the tenant stated she had made it the day before the April 16<sup>th</sup> hearing.

### 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 pay the rent within five days of receiving the notice and did not make application to dispute it.

Therefore, under section 46(5) of the *Act*, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy which was February 23, 2012.

Accordingly, and taking into account the tenant's delayed response to the landlord's extraordinary efforts to create a manageable repayment plan, I find that the landlord is entitled to an Order of Possession to take effect no later than two days from service of it on the tenant.

I further find that the landlord is entitled to a Monetary Order for the unpaid rent of \$2,236 at the time of the hearing and recovery of the \$50 filing fee for this proceeding from the tenant.

The monetary award totals \$2,286.

### Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect no later than two days from service of it on the tenant.

The landlord's copy of this decision is also accompanied by a Monetary Order for \$2,286 enforceable through the Provincial Court of British Columbia, for service on the tenant.

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 16, 2012.

---

Residential Tenancy Branch