



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, FF

### Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent and to recover the filing fee associated with this application.

Through his agent, the landlord participated in the hearing and provided affirmed testimony. He testified that he served the Notice of a Dispute Resolution Hearing to the tenants in person on May 12, 2012. The tenants did not participate and the hearing proceeded in the tenants' absence.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to recover the filing fee?

### Background and Evidence

The rental unit consists of a basement suite. Pursuant to a written agreement, the tenancy started on February 1, 2012. The rent is \$900.00 per month and the tenants paid a security deposit of \$450.00.

The landlord's agent testified that the tenants have not paid rent for April and May 2012. He stated that when he served them a 10 Day Notice to End Tenancy, the tenants said

that they were moving back East; however the tenants continue to occupy the rental unit.

The landlord applied for an Order of Possession.

### Analysis

I accept the landlord's agent's undisputed testimony that he 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 tenant in this matter has 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.

### Conclusion

I grant the landlord an Order of Possession effective two days from the date the order is served upon the tenant. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

Since the landlord was successful, I award the landlord recovery of the \$50.00 filing fee by deducting that amount from the tenants' security deposit.

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: May 31, 2012.

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Residential Tenancy Branch