



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR and FF

This application was brought by the landlord on April 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 April 12, 2012 which followed an earlier Notice for unpaid rent served on March 21, 2012. The landlord also sought a Monetary Order for unpaid rent and recovery of the filing fee for this proceeding.

Despite having been served with the Notice of Hearing sent by registered mail on April 23, 2012, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

### 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 November 1, 2011. Rent is \$650 per month and while the landlord held a security deposit of \$325, he permitted the tenant to use it to satisfy a rent shortfall in February 2012.

During the hearing, the landlord gave evidence that the Notice to End Tenancy of April 12, 2012 was served when the tenant had failed to pay the \$650 rent due on March 1, 2012 and on April 1, 2012. In the interim, that rent remains unpaid and the tenant has failed to pay the rent due on May 1, 2012.

Therefore, the landlord requested an Order of Possession as soon as possible and a Monetary Order for the unpaid rent and recovery of the filing fee for this proceeding.

### 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 April 25, 2012 taking into account the three days deemed service of notice served by posting..

Accordingly, I find that the landlord is entitled to an Order of Possession to take effect 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 and recovery of the filing fee for this proceeding as follows:

Rent for March 2012	\$650.00
Rent/loss of rent for May 2012	650.00
Filing fee	<u>50.00</u>
<b>TOTAL</b>	<b>\$2,000.00</b>

### 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 two days from service of it on the tenant.

The landlord's copy of this decision is also accompanied by a Monetary Order for \$2,000.00, enforceable through the Provincial Court of British Columbia, for service on the tenant.

The landlord remains at liberty to make application to claim any further damage or losses as may be ascertained following the conclusion of the tenancy.

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 10, 2012.

---

Residential Tenancy Branch