



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPR; MNR; MNDC, MNSD; FF

### **Introduction**

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent and loss of revenue; to retain the security deposit in partial satisfaction of his monetary claim; and to recover the cost of the filing fee from the Tenant.

The Landlord's agent gave affirmed testimony at the Hearing.

The Landlord's agent testified that the amended Notice of Hearing documents were mailed to the Tenant, via registered mail, to the rental unit on March 28, 2013. The Landlord provided the registered mail receipt and tracking numbers for the registered documents.

Based on the affirmed testimony of the Landlord's agent and the documentary evidence provided by the Landlord, I am satisfied that the Tenant was duly served with the Notice of Hearing documents by registered mail. Service in this manner is deemed to be effected 5 days after mailing the documents. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing proceeded in her absence.

### **Issues to be Decided**

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order, and if so, in what amount?

### **Background and Evidence**

The Landlord's agent gave the following testimony and evidence:

Monthly rent is \$1,280.00, due the first day of each month. The Tenant paid a security deposit in the amount of \$500.00 on September 14, 2011.

The Tenant did not pay rent when it was due for January and February, 2013. On February 4, 2013, the Landlord served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent, by leaving the Notice in the Tenant's mailbox at the rental unit.

The Landlord's agent testified that the Tenant has not paid any rent for January, February, March or April, 2013, and that she appears to be still living in the rental unit. He stated that he went to the rental unit twice to speak to the Tenant, but the Tenant did not answer the door. However, there was a car in the driveway and the Landlord's agent noticed that the curtains were in a different position the second time he went to visit.

### **Analysis**

I accept that the Landlord served the Tenant with the Notice to End Tenancy by leaving the Notice in the Tenant's mailbox on February 4, 2013. Pursuant to the provisions of Section 90 of the Act, service in this manner is deemed to be effected three days after posting the documents. The Tenant did not pay all of the arrears, or file for dispute resolution, within 5 days of receiving the documents. Therefore, pursuant to 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, February 18, 2013. I find that the Landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent for January and February, 2013, and loss of revenue for March and April, 2013.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit towards partial satisfaction of the Landlord's monetary claim.

The Landlord has been successful in his application and I find that he is entitled to recover the cost of the \$50.00 filing fee from the Tenant.

I hereby provide the Landlord a Monetary Order, calculated as follows:

Unpaid rent for January and February, 2013	\$2,560.00
Loss of revenue for March and April, 2013	\$2,560.00
Recovery of the filing fee	<u>\$50.00</u>
Subtotal	\$5,170.00
Less security deposit	<u>- \$500.00</u>
<b>TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF</b>	<b>\$4,670.00</b>

### **Conclusion**

I hereby provide the Landlord an Order of Possession **effective 2 days after service of the Order upon the Tenant**. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby provide the Landlord a Monetary Order in the amount of \$4,670.00 for service upon the Tenant. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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 24, 2013

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Residential Tenancy Branch

