



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MND, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order authorizing her to retain the security deposit in partial satisfaction of the claim. The tenant did not participate in the conference call hearing.

The landlord provided evidence showing that she served the application for dispute resolution and notice of hearing via registered mail sent on April 4, 2013. Although the landlord submitted evidence showing that the tenant had been in Toronto at the beginning of March, she testified that she was certain that the tenant had returned to BC and was living in the rental unit. I found that the tenant had been properly served with the application for dispute resolution and notice of hearing and the hearing proceeded in his absence.

### Issues to be Decided

Is the landlord entitled to an order of possession?  
Is the landlord entitled to a monetary order as claimed?

### Background and Evidence

The landlord's undisputed evidence is as follows. The tenancy began on December 9, 2012 at which time the tenant paid an \$800.00 security deposit. The tenant was obligated to pay \$1,600.00 in rent in advance on the 9<sup>th</sup> day of each month. The tenant failed to pay rent in the month of March and on March 21, the landlord served the tenant with a 10 day notice to end tenancy for unpaid rent (the "Notice") by posting it to the door of the rental unit. The tenant further failed to pay rent in the month of April.

The landlord claimed that the tenant damaged the walls, ceiling and laminate flooring of the rental unit. The landlord provided one photograph of the laminate and one photograph of a stain on a wall. The landlord also provided a repair estimate in which

the contractor estimated that it would cost \$2,100.00 to replace the floor, \$400.00 to repaint the ceiling and \$700.00 to repair and paint the walls.

The landlord's contractor appeared at the hearing and gave testimony. He testified that there was water damage to the laminate in the kitchen and that there was a dent in the floor in the living room. He testified that it would be impossible to repair the floor or replace the entire floor and claimed that the only option available to the landlord was to replace the entire floor.

The contractor testified that there was a stain on the ceiling and on the wall and when asked why the entire unit had to be repainted rather than merely painting the affected areas, the contractor replied that it was impossible to match the colour of the paint and that no one would be able to do that.

### Analysis

I accept the undisputed testimony of the landlord and I find that the Notice was posted on the door of the rental unit on March 21. Section 90(c) provides that posted documents are deemed to have been received 3 days later. I find that the tenant received the Notice on March 24. The tenant did not file an application for dispute resolution to dispute the Notice and did not pay the arrears and I find that pursuant to section 46(5) of the Act, he is presumed to have accepted that the tenancy ended on the effective date of the Notice. I find that the landlord is entitled to an order of possession and I grant her a formal order which may be filed in the Supreme Court for enforcement should the tenant fail to comply.

I find that the tenant failed to pay \$1,600.00 for rent in March and that he further failed to pay any rent for the month of April, although he lived in the unit during that month. I find that the landlord is entitled to recover \$3,200.00 in rental arrears and lost rental income for the period from March 9 – May 8 and I award the landlord \$3,200.00.

I find that there was some minimal damage to the rental unit. However, the photographs provided by the landlord do not show damage which may be characterized as beyond reasonable wear and tear and the landlord provided no evidence showing the condition of the rental unit at the beginning of the tenancy. I do not accept that the walls and ceiling could not be cleaned rather than being completely repainted. I further find the contractor's claim that it is impossible to match paint on the walls to be inaccurate as this is such a common practice, paint suppliers provide professional paint matching services.

Based on the evidence before me, I am not satisfied that the tenant caused damage requiring the replacement of the laminate or the complete repainting of the walls. I dismiss this part of the claim.

As the landlord has been partially successful in her claim, I find that she should recover the \$50.00 filing fee paid to bring her application.

The landlord has been awarded a total of \$3,250.00. I order the landlord to retain the \$800.00 security deposit in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance of \$2,450.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

#### Conclusion

The landlord is granted an order of possession and a monetary order for \$2,450.00.

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 30, 2013

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Residential Tenancy Branch