



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

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

### **Introduction**

This is the Landlord's application for an Order of Possession and a Monetary Order for unpaid rent.

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

This matter was originally scheduled to be determined by way of Direct Request Proceeding and was rescheduled to a participatory Hearing.

The Landlord's agent testified that he personally served the Tenant with the Notice of Hearing documents for the reconvened Hearing on March 8, 2011.

Based on the affirmed testimony of the Landlord's agent, I am satisfied that the Tenant was duly served with the Notice of Hearing 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 \$900.00 per month, due the first day of each month. A copy of the tenancy agreement was entered in evidence. The Tenant did not pay rent for the month of February when it was due and the Landlord issued a 10 Day Notice to End Tenancy

for Unpaid Rent (the "Notice"). On February 2, 2011, the Landlord's agent served the Tenant with the Notice, by posting the Notice on the Tenant's door at the rental unit. The Landlord's agent testified that the Tenant did not pay March's rent when it was due, either. The Landlord's agent seeks a monetary award for two late payments, pursuant to the terms of the tenancy agreement, at the rate of \$20.00 per late payment (\$40.00 in total for February and March, 2011).

The Landlord's agent testified that the Tenant has made the following partial payments towards rent:

Unpaid rent as at February 1, 2011	\$900.00
Late fee (February, 2011)	\$20.00
Loss of revenue (March rent)	\$900.00
Late fee (March, 2011)	\$20.00
Less amount paid March 1, 2011	-\$800.00
Less amount paid March 11, 2011	<u>-\$250.00</u>
TOTAL MONETARY CLAIM	\$790.00

The Landlord asked to recover the cost of the filing fee from the Tenant.

### **Analysis**

I accept the Landlord's agent's affirmed testimony that the Landlord served the Tenant with the Notice to End Tenancy by posting the Notice on the Tenant's door on February 2, 2011. 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 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 February 15, 2011. The Landlord is entitled to an Order of Possession and I make that Order, **effective 2 days after service of the Order upon the Tenant.**

The Landlord's agent has established a monetary claim for unpaid of rent and loss of revenue in the amount of \$750.00. The tenancy agreement includes a late payment fee

in the amount of \$20.00. I allow this fee for the month of February, 2011. The tenancy ended on February 15, 2011, and therefore I dismiss the Landlord's claim for late fees for the month of March, 2011.

The Landlord has been successful in its application and is entitled to recover the cost of the \$50.00 filing fee from the Tenant.

The Landlord has established a monetary award as follows:

Unpaid rent and loss of revenue	\$750.00
Late fee for February, 2011	\$20.00
Recovery of the filing fee	\$50.00
<b>TOTAL</b>	<b>\$820.00</b>

### **Conclusion**

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

I hereby grant the Landlord a Monetary Order in the amount of **\$820.00** against the Tenant. This Order must be served on the Tenant and 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: March 15, 2011.

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