



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

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

### **Introduction**

This is the Landlords' application for an Order of Possession; a Monetary Order for unpaid rent and loss of revenue; to apply the security deposit towards their monetary award; and to recover the cost of the filing fee from the Tenants.

The Landlords' agents gave affirmed testimony at the Hearing.

The Application for Dispute Resolution was filed on March 31, 2011 and amended to add the Tenant HW on April 4, 2011. The Landlord's agent SA testified that she served each of the Tenants with the amended Notice of Hearing documents by registered mail, sent to the rental unit on April 4, 2011. The Landlords provided copies of the registered mail receipts in evidence.

I accept the Landlords' agent's affirmed testimony that the Tenants were served with the Notice of Hearing documents, including the Landlords' amended Application, in accordance with the provisions of Section 89(c) of the Act. In spite of being served with the documents, neither Tenant signed into the teleconference and the Hearing proceeded in their absence.

### **Issue(s) to be Decided**

- (1) Are the Landlords entitled to an Order of Possession?
- (2) Are the Landlords entitled to a monetary order for unpaid rent for the months of December, 2010, and January, February and March, 2011, and loss of revenue for the month of April, 2011?

## **Background and Evidence**

The Landlords' agent MT testified that he served the Tenants with the Notice to End Tenancy issued March 10, 2011, by registered mail sent to the rental unit. The Landlords' agent provided the tracking number for the Notice to End Tenancy.

Monthly rent is \$1,400.00 per month, due on the first day of each month. The Tenants paid a security deposit in the amount of \$700.00 on April 15, 2008 and a pet damage deposit in the amount of \$700.00 on April 21, 2008. The Tenants owes partial rent for the month of December, 2010, in the amount of \$235.00. The Tenants have not paid any rent for the months of January, February or March, 2011. The Tenants remain in the rental unit and therefore, the Landlord CPM is seeking loss of revenue for the month of April 2, 2011.

The Landlords have applied for a monetary award in the amount of \$5,000.00 only, and therefore paid a filing fee in the amount of \$50.00.

## **Analysis**

I accept the Landlords' agent's testimony that the Tenants were duly served with the Notice to End Tenancy. The Tenants did not pay the rental arrears or dispute the Notice to End Tenancy within 5 days of being served with the Notice to End Tenancy. Pursuant to Section 46(5) of the Act, the Tenants are conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. Documents served by registered mail are deemed to be received on the 5<sup>th</sup> day after mailing. In this case, the effective end to the tenancy was March 25, 2011.

Therefore, the Landlord is entitled to an Order of Possession and I make that order **effective 2 days after service of the Order upon the Tenants.**

Based on the undisputed testimony of the Landlords' agents, and the absence of any evidence to the contrary from the Tenants, the Landlords have established a claim, as follows:

Unpaid rent for December, 2010	\$235.00
Unpaid rent for January, 2011	\$1,400.00
Unpaid rent for February, 2011	\$1,400.00
Unpaid rent for March, 2011	\$1,400.00
Loss of revenue for April, 2011	<u>\$1,400.00</u>
TOTAL:	\$5,835.00

However, the Landlords have only claimed a monetary award of \$5,000.00.

Pursuant to the provisions of Section 72 of the Act, the Landlords may apply the security and pet damage deposits, together with accrued interest, towards partial satisfaction of their monetary award.

The Landlords have been successful in their claim and are entitled to recover the cost of the filing fee from the Tenants.

I hereby provide the Landlords with a Monetary Order against the Tenants, calculated as follows:

Total claimed for unpaid rent and loss of revenue	\$5,000.00
Recovery of filing fee	\$50.00
Less security deposit and \$7.49 accrued interest	<\$707.49>
Less pet damage deposit and \$7.32 accrued interest	<u>&lt;\$707.32&gt;</u>
TOTAL amount due to Landlord after set off	\$3,635.19
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## **Conclusion**

I hereby provide the Landlords an Order of Possession **effective two days from service of the Order upon the Tenants**. 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 **\$3,635.19** for service upon the Tenants. 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 26, 2011.

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Residential Tenancy Branch