



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding COLLIERS MACAULAY NICOLLS  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession based on non-payment of rent.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail, which were sent on October 25, 2013 and successfully delivered on October 28, 2013, the respondents did not appear. I find that the respondents have been duly served in accordance with the Act. Filed in evidence is Canada post tracking numbers.

The landlord's agent appeared, gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

### Preliminary matter

In this case, the landlord has filed an application against several respondents; however, the only tenant that signed the tenancy agreement was the tenant (LM). As a result, I find the other tenants listed on that agreement are merely occupants and have no legal obligation or rights under the Act. Therefore, this hearing proceeded against the tenant (LM).

### Issue to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

### Background and Evidence

Based on the testimony of the landlord's agent, I find that the tenant was served with a notice to end tenancy for non-payment of rent on October 4, 2013, by posting to the door of the rental unit, which was witnessed by a third party. The notice informed the tenant that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice.

The landlord's agent testified on October 7, 2013, the tenant paid the outstanding rent by cheque, however, the cheque was returned on October 8, 2013 for insufficient funds. The landlord's agent stated the tenant did not dispute the notice and the outstanding rent was not paid within five days.

### Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

The tenant has not paid the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the Act 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 effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

### Conclusion

The tenant failed to pay rent and did not file to dispute the notice to end tenancy. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession.

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: December 04, 2013

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Residential Tenancy Branch

