



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Cascadia Apartment Rentals Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

This was a hearing with respect to the landlord's application for an order for possession, a monetary award for unpaid rent and an order to retain the tenants' security deposit. The hearing was conducted by conference call. The landlord's representative called in and participated in the hearing. The tenants did not attend the hearing.

The landlord's representative testified that the tenants failed to pay rent for November when it was due and a 10 day Notice to End Tenancy for unpaid rent was served on November 7, 2014 by posting it to the door of the rental unit. The tenants did not pay rent for December. The landlord's representative testified that the tenants were served with the application for dispute resolution and Notice of Hearing by registered mail sent on December 9, 2014. The landlord's representative said that she learned on December 16, 2014 that the tenants had "skipped", that is moved out of the rental unit without notice sometime prior to December 16<sup>th</sup>. She could not say when the tenants moved out. The landlord's representative said that she spoke to the tenant's brother who confirmed to her that the tenants had received the documents sent by registered mail. The landlord's representative did not submit documents to confirm the service of documents by registered mail, but she did provide me with the tracking numbers for the registered mail sent on December 9, 2014.

After the hearing concluded, I searched the tracking numbers on the Canada Post website. According to the information provided by Canada Post, each of the registered mail items was sent on December 9, 2014, but they were unclaimed by the tenants and they were both returned to the landlord and signed for as received on behalf of the corporate landlord on December 30, 2014 and on January 5, 2015.

### Issue(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to an order permitting the retention of the security deposit in partial satisfaction of the monetary award?

Analysis and conclusion

The landlord learned on December 16, 2014 that the tenants had moved out of the rental unit. The actual date when the tenants moved out is unknown. The tenants failed to pay rent for November and for December. The landlord has failed to establish that the tenants resided at the rental unit on December 9, 2014 when the hearing documents were mailed and the documents were not delivered to the tenants by Canada Post, but instead they were returned to the landlord.

Because it has not been shown that the tenants resided at the rental unit on December 9, 2014 when documents were mailed, I cannot find that the presumption of service on the fifth day after mailing as set out in section 90 of the *Residential Tenancy Act* applies in this case. The landlord has failed to establish that the tenants have been served with the application for dispute resolution and Notice of Hearing and in the absence of proof of service this application is dismissed with leave to reapply.

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: January 08, 2015

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Residential Tenancy Branch

