



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR

### Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution, made on October 27, 2017 (the "Application"). The Landlords applied for an order of possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated October 16, 2017 (the "10 Day Notice"), pursuant to the *Residential Tenancy Act* (the "*Act*").

The Landlords attended the hearing in person but did not participate in the hearing. The Landlords' son, D.M., also attended and provided affirmed testimony on their behalf. The Tenant did not attend the hearing.

Referring to a receipt, D.M. testified the Application package was served on the Tenant by registered mail on November 4, 2017. Pursuant to sections 89 and 90 of the *Act*, documents served by registered mail are deemed to be received five days later. I find the Tenant is deemed to have received the Application package on November 9, 2017.

On behalf of the Landlords, D.M. was provided with the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue to be Decided

Are the Landlords entitled to an order of possession for unpaid rent or utilities?

### Background and Evidence

D.M., the Tenant's brother, testified that the Landlords are the Tenant's mother and father. He confirmed the property was previously owned by the Tenant, but was transferred into the Landlords' names when the Tenant became unable to make mortgage payments. At that time, the parties entered into a written agreement, which was witnessed by D.M. and another person. According to D.M., the agreement confirmed the Tenant would rent a room in a suite on the upper floor of the property and would pay rent in the amount of \$500.00 per month. The Landlords submitted a letter from their lawyer in support of the agreement.

D.M. testified the Tenant has not paid rent since the agreement was made. As a result, the Landlords issued the 10 Day Notice, which was served on the Tenant on October 16, 2017. Specifically, the 10 Day Notice was given to P.L., an adult who resided with the Tenant at that time.

The Tenant did not attend the hearing to dispute the Landlords' evidence.

### Analysis

Based on the unchallenged and affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

The Landlords sought an order of possession. In this case, D.M. testified, and I find, that the Tenant was served with and received the 10 Day Notice on October 16, 2017. Accordingly, pursuant to section 46(4) of the *Act*, the Tenant had until October 21, 2017, to pay rent in full or dispute the 10 Day Notice by filing an application for dispute resolution. D.M. testified the Tenant has not paid rent. He has no knowledge of an application for dispute resolution being filed by the Tenant. As a result, I find the Tenant is conclusively presumed to have accepted the tenancy ended on the effective date of the 10 Day Notice, pursuant to section 46(5) of the *Act*. The Landlords are entitled to an order of possession, which will be effective two (2) days after it is served on the Tenant.

Conclusion

The Landlords are granted an order of possession, which will be effective two (2) days after it is served on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

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 16, 2018

---

Residential Tenancy Branch