



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      FFL MNRL-S OPR

### Introduction

This hearing was scheduled to convene at 11:00 a.m. this date by way of conference call concerning an application made by the landlords seeking an Order of Possession and a monetary order for unpaid rent or utilities; an order permitting the landlords to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of the application.

One of the landlords attended the hearing with a property manager, and both gave affirmed testimony. However the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call. The landlord's property manager testified that the tenant was served with the Landlord Application for Dispute Resolution and notice of this hearing (the Hearing Package) by registered mail on August 13, 2018 and the landlords have provided a copy of a Registered Domestic Customer Receipt bearing a Canada Post date stamp of August 13, 2018 as well as a Canada Post cash register receipt bearing that date. The package was returned to the landlords by Canada Post marked "Unclaimed," and a copy of the envelope has also been provided for this hearing.

The *Residential Tenancy Act* specifies that documents served by registered mail are deemed to have been served 5 days after mailing, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

During the course of the hearing, the property manager advised that the landlord's first language is not English, and the property manager translated the proceedings. No security deposit or pet damage deposit was collected by the landlords, and the application to keep the deposit(s) is withdrawn. The landlord also withdrew the application for a monetary order.

### Issue(s) to be Decided

The issue remaining to be decided is:

- Are the landlords entitled under the *Residential Tenancy Act* to an Order of Possession for unpaid rent?

### Background and Evidence

The landlord testified that this month-to-month tenancy began on January 15, 2017 and the tenant still resides in the rental unit. Rent in the amount of \$800.00 per month is payable on the 1<sup>st</sup> day of each month, and the landlord collected a pro-rated amount for the first month of the tenancy. The tenant is currently in arrears the sum of \$2,400.00 for July, August and September, 2018 rent. No security deposit or pet damage deposit was collected by the landlords, and no written tenancy agreement was signed by the parties. The rental unit is a basement suite, and the landlords reside in the upper level of the home.

The landlord further testified that the tenant was served personally with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on July 20, 2018, and a copy has been provided as evidence for this hearing. It is dated July 20, 2018 and contains an effective date of vacancy of July 31, 2018 for unpaid rent in the amount of \$800.00 that was due on July 1, 2018. The tenant has not paid the rent and has not served the landlord with an Application for Dispute Resolution disputing the Notice, and the landlord seeks an Order of Possession.

### Analysis

The *Residential Tenancy Act* states that once served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, the tenant has 5 days to pay the rent in full or to dispute the Notice by filing and serving the landlord with an Application for Dispute Resolution. If the tenant does neither, the tenant is conclusively presumed to have accepted the end of the tenancy.

In this case, I accept the undisputed testimony of the landlord that the tenant has not paid the rent and has not served the landlords with an Application for Dispute Resolution, and I have no such application before me. Therefore, I find that the tenant is conclusively presumed to have accepted the end of the tenancy and the landlords are entitled to an Order of Possession. Since the effective date of vacancy has passed, I grant the Order of Possession effective on 2 days notice to the tenant.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlords effective on 2 days notice to the tenant.

This order is final and binding and may be enforced.

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: September 28, 2018

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Residential Tenancy Branch