



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding METRO VANCOUVER HOUSING CORPORATION  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

On November 14, 2018, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for an order of possession; for a monetary order for unpaid rent or utilities; and to recover the cost of the filing fee. The matter was set for a conference call hearing.

The Landlord's agents (“the Landlord”) attended the teleconference hearing; however, the Tenants did not. The Landlord provided affirmed testimony that the Tenants were served the Notice of Dispute Resolution Proceeding by registered mail sent to each Tenant on November 30, 2018. The Landlord testified that the registered mail was sent to the Tenants at the dispute address. The Landlord provided the registered mail tracking information as proof of service.

I find that the Tenants have been duly served with the Notice of Dispute Resolution Proceeding in accordance with sections 89 and 90 of the *Act*. The Notice of Dispute Resolution Proceeding is deemed delivered to the Tenants on December 5, 2018; the fifth day after it was mailed.

The Landlord was provided the opportunity to present her evidence orally and in written and documentary form, and to make submissions at the hearing.

### Issues to be Decided

- Is the Landlord entitled to an order of possession due to unpaid rent?
- Is the Landlord entitled to a monetary order to recover unpaid rent?
- Is the Landlord entitled to recover the cost of the filing fee?

### Background and Evidence

The Landlord testified that the tenancy began in June, 2005, and is on a month to month basis. Rent in the amount of \$1,209.00 is to be paid to the Landlord by the first day of each month. The Tenants paid the Landlord a security deposit in the amount of \$410.00. The Landlord provided a copy of the tenancy agreement.

The Landlord testified that the Tenants did not pay the rent owing under the tenancy agreement for the months of October 2018, and November 2018.

The Landlord testified that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated November 5, 2018, ("the 10 Day Notice").

The Landlord submitted that the Tenant was served with the Notice by posting the Notice on the Tenants door at 3:10 pm on November 5, 2018.

The 10 Day Notice indicates that the Tenants have failed to pay rent in the amount of \$2,583.00 which was due on November 1, 2018. 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.

There is no evidence before me that the Tenants made an application to dispute the 10 Day Notice.

The Landlord testified that the Tenants failed to pay the rent within five days of receiving the 10 Day Notice.

The Landlord testified that the Tenants have also failed to pay the rent for December 2018, and January 2019. The Landlord requests to amend the application to include a loss of rent for these additional two months. The Landlord testified that the Tenants are still living in the rental unit. The Landlord is seeking compensation for the following months:

- October 2018, in the amount of \$1,209.00
- November 2018, in the amount of \$1,209.00
- December 2018, in the amount of \$1,209.00
- January 2019, in the amount of \$1,209.00

The Landlord seeks an order of possession for the rental unit and a monetary order for unpaid rent in the amount of \$4,836.00

### Analysis

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenants failed to pay the rent owing under the tenancy agreement within five days of receiving the 10 Day Notice, and did not apply to dispute the Notice, and are 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, pursuant to section 55 of the Act, effective two days after service on the Tenants. This order may be filed in the Supreme Court and enforced as an order of that Court. The Tenants are cautioned that costs of such enforcement are recoverable from the Tenants.

I find it is reasonable to permit the Landlord to amend the application to include a claim for unpaid rent for December 2018, and January 2019. The Landlord has suffered a loss of rent and the Tenants know that they are required under the tenancy agreement to pay the rent each month. The Tenants are still living in the rental unit.

I find that the Tenants owe the Landlord \$4,836.00.00 in unpaid rent for the above mentioned dates.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenants to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a total monetary claim of \$4,936.00 comprised of \$4,836.00 in unpaid rent and the \$100.00 fee paid by the Landlord for this hearing.

I grant the Landlord a monetary order in the amount of \$4,936.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenants are cautioned that costs of such enforcement are recoverable from the Tenants.

### Conclusion

The Tenants failed to pay the rent due under the tenancy agreement within five days of receiving the 10 Day Notice; and did not file to dispute the Notice. The Tenants are presumed under the law to have accepted that the tenancy ended on the effective date of the Notice.

I find that the Tenants owe the Landlord \$4,836.00.00 in unpaid rent.

The Landlord is granted an order of possession effective two (2) days after service on the Tenants and I grant a monetary order for the unpaid rent and the cost of the filing fee in the amount of \$4,936.00.

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 11, 2019

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Residential Tenancy Branch