



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PACIFIC COVE PROPERTY MANAGEMENT LTD  
and COUNTESS GARDENS INC  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR

### Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution, made on January 17, 2019, which was amended on the same date (the "Application"). The Landlords applied for an order of possession for unpaid rent or utilities, pursuant to the *Residential Tenancy Act* (the "Act"). N.A. confirmed the Landlords are only seeking an order of possession at this time.

The Landlords were represented at the hearing by N.A. and L.R., agents. The Tenant did not attend the hearing.

On behalf of the Landlords, N.A. and L.R. confirmed the Application package was served on the Tenant by registered mail on January 18, 2019. A Canada Post registered mail receipt was submitted into evidence in support. Pursuant to sections 89 and 90 of the *Act*, documents served by registered mail are deemed to be received 5 days later. I find the Tenant is deemed to have received the Application package on January 23, 2019.

N.A. and L.R. were given 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

A copy of the tenancy agreement between the parties was submitted into evidence. It confirmed the tenancy began on September 1, 2011. Rent in the amount of \$856.00 per month is due on the first day of each month. The Tenant paid a security deposit in the amount of \$380.00, which the Landlords hold.

On behalf of the Landlords, N.A. and L.R. testified the Tenant did not pay rent when due on December 1, 2018. Accordingly, the Landlords issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated December 5, 2018 (the "10 Day Notice"). At that time, rent in the amount of \$856.00 was outstanding. The 10 Day Notice was served on the Tenant by posting it to the door of the Tenant's rental unit on December 5, 2018. A signed proof of service document submitted into evidence confirmed service in this manner was witnessed by N.A.

According to the N.A., rent was also not paid when due on January 1 and February 1, 2019. Currently, rent in the amount of \$2,568.00 is outstanding. The Tenant continues to occupy the rental unit.

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, N.A. and L.R. testified, and I find, that the 10 Day Notice was served on the Tenant by leaving a copy attached to the door of the Tenant's rental unit on December 5, 2018. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received 3 days later. I find the Tenant is deemed to have received the 10 Day Notice on December 8, 2018. Accordingly, pursuant to section 46(4) of the *Act*, the Tenant had until December 13, 2018, to pay rent in full or to dispute the 10 Day Notice by filing an application for dispute resolution. On behalf of the Landlords, N.A. testified the Tenant has not paid

rent and continues to reside in the rental unit. As a result, pursuant to section 46(5) of the *Act*, I find the Tenant is conclusively presumed to have accepted the tenancy ended on the effective date of the 10 Day Notice. The Landlords are entitled to an order of possession, which will be effective two (2) days after it is served on the Tenant.

Having been successful, I also find the Landlords are entitled to recover the \$100.00 filing fee paid to make the Application. I order that this amount may be deducted from the security deposit held.

### Conclusion

The Landlords are granted an order of possession, which will be effective two (2) days after service 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: February 25, 2019

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Residential Tenancy Branch