



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR

### Introduction

On January 16, 2019, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for an order of possession for the rental unit and to recover the cost of the filing fee. The matter was set for a conference call hearing.

The Landlords attended the teleconference hearing; however, the Tenant did not. The Landlord provided affirmed testimony that the Tenant was served the Notice of Dispute Resolution Proceeding documents by registered mail sent on January 17, 2019. The Landlord provided a copy of the registered mail receipt and tracking information that indicates the mail was sent to the Tenant at the dispute address.

I find that the Tenant has 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 received on January 22, 2019, the fifth day after it was mailed.

The Landlord was provided the opportunity to present his 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 recover the cost of the filing fee?

### Background and Evidence

The Landlord testified that the Tenancy began on May 1, 2017. Rent in the amount of \$750.00 is to be paid to the Landlord by the first day of each month. The Tenant was

not required to pay a security deposit or pet damage deposit. The Landlord provided a copy of the tenancy agreement.

The Landlord testified that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated January 2, 2019, ("the 10 Day Notice"). The Landlord testified that the Tenant was served with the 10 Day Notice by posting the Notice on the Tenant's door on January 2, 2019. The Landlord provided a photograph showing the 10 Day Notice attached to the door of rental unit.

The 10 Day Notice indicates that the Tenant has failed to pay rent in the amount of \$1,700.00 which was due on January 1, 2019. 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.

The Landlord testified that the Tenant did not pay the rent owing under the tenancy agreement within five days of receiving the 10 Day Notice. The Landlord testified that the Tenant has not made any rent payments since the 10 Day Notice was issued.

The Landlord testified that the amount of \$1,700.00 is for unpaid rent for December 2018, and January 2019, and \$200.00 left owing from November 2018.

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

The Landlord seeks an order of possession for the rental unit.

### Analysis

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant did not 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 is 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 Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

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

Conclusion

The Tenant is deemed to have received the Notice of Dispute Resolution Proceeding and failed to attend the hearing.

The Tenant 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 Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice.

The Landlord is granted an order of possession effective two (2) days after service on the Tenant and I grant a monetary order for the cost of the filing fee in the amount of \$100.00.

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: February 28, 2019

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Residential Tenancy Branch