



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, FF

### Introduction

On October 22, 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 based on the issuance of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

The matter was set for a conference call hearing. 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 on October 26, 2019 by registered mail sent to the dispute address. The Landlord provided a copy of the registered mail receipt and tracking number 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 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 of the rental unit due to unpaid rent?

### Background and Evidence

The Landlord testified that the tenancy began on September 15, 2019, on a month to month basis. Rent in the amount of \$950.00 is to be paid to the Landlord by the fifteenth day of each month. The Landlord provided a copy of the tenancy agreement.

The Landlord testified that the Tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated October 16, 2019, ("the 10 Day Notice"). The Landlord testified that the Tenant was served with the notice in person on October 16, 2019 by serving it to Ms. C.D. at the rental unit.

The 10 Day Notice indicates that the Tenants have failed to pay rent in the amount of \$950.00 which was due on October 15, 2019. The Notice informed the Tenants that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenants had five days to dispute the Notice. The 10 Day Notice has an effective date of October 25, 2019.

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

The Landlord testified that the Tenants did not pay the rent owing under the tenancy agreement within five days of receiving the 10 Day Notice. The Landlord testified that the Tenants have not paid any rent since the 10 Day Notice was issued. The Landlord testified that the Tenants are still living in the rental unit.

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 Tenants received the 10 Day Notice on October 16, 2019 and did not pay the rent owing under the tenancy agreement within five days of receiving the 10 Day Notice.

The Tenants did not apply to dispute the 10 Day Notice, and therefore they are conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the 10 Day 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 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 Tenants to repay the \$100.00 fee that the

Landlord paid to make application for dispute resolution. I grant the Landlord a monetary order in the amount of \$100.00.

Conclusion

The Tenants failed to pay the rent due under the tenancy agreement 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.

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 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: December 13, 2019

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Residential Tenancy Branch