



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR,

### Introduction

On May 16, 2020, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for an order of possession for the rental unit.

The matter was set for a conference call hearing. The Landlord attended the teleconference hearing; however, the Tenant did not. The line remained open while the phone system was monitored for twenty-five minutes and the Tenant did not call into the hearing during this time.

The Landlord provided affirmed testimony that the Tenant was served the Notice of Dispute Resolution Proceeding on May 21, 2020 using an email address that the parties have regularly used to discuss tenancy matters since June 2015. The Landlord testified that he also sent the Notice of Dispute Resolution Proceeding to the Tenant using registered mail sent to the Tenant at the dispute address on May 22, 2020. The Landlord provided a copy of the registered mail receipt as proof of service.

On March 30, 2020 the Minister of Public Safety and Solicitor General declared a state of emergency because of the COVID -19 pandemic. On March 30, 2020 a Residential Tenancy Branch Directors Order declared that until the state of emergency is cancelled or expired a document described in section 88 or 89 of the Act has been sufficiently given or served for the purposes of the Act if it is emailed to the email address of the person to be served using an email address that has been routinely used to correspond about tenancy matters.

I accept the Landlords affirmed testimony that he sent the notice of hearing to the Tenant on May 21, 2020 using the Tenant’s email address regularly used to discuss tenancy matters. I find that the Tenant is deemed to have been served on May 24, 2020 the third day after it was emailed.

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

Issue to be Decided

- Is the Landlord entitled to an order of possession due to unpaid rent?

Background and Evidence

The Landlord testified that the tenancy began on June 1, 2015, on a month to month basis. Rent in the amount of \$550.00 is to be paid to the Landlord by the first day of each month. The Landlord provided a copy of the tenancy agreement.

The Landlord testified that the Tenant was not paying the rent when due and was in arrears.

The Landlord testified that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated January 10, 2020, ("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 10, 2020. The Landlord provided a proof of service document signed by a witness.

The 10 Day Notice indicates that the Tenant has failed to pay rent in the amount of \$3,336.51 which was due on January 1, 2020. 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 Tenant made an application to dispute the 10 Day Notice.

The Landlord testified that the Tenant did not pay all the rent listed in the 10 Day Notice within 5 days of receiving the Notice.

The Landlord testified that the Tenant made a few partial payments amounting to \$2,433.26; however, the Tenant still owes the Landlord rent of \$903.25 from the amount listed in the 10 Day Notice.

The Landlord testified that in addition to the \$903.25, the Tenant has not paid the rent owing under the tenancy agreement for the months of February; March; April; and May 2020.

The Landlord seeks an order of possession for the rental unit. The Landlord is not seeking a monetary order as the Landlord does not believe he will be successful collecting the unpaid rent.

### Analysis

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant received the 10 Day Notice posted to his door on January 10, 2020. I find that the Tenant did not pay all the rent owing under the tenancy agreement and listed in the 10 Day Notice within five days of receiving the 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.

### Conclusion

The Tenant failed to pay the rent due under the tenancy agreement and did not file to dispute the 10 Day 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 for the rental unit effective 2 days after service on the Tenant.

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: June 15, 2020

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Residential Tenancy Branch