



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Global Pacific Ventures Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNRL, FFL

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") an order of possession for unpaid rent, further to having served the Tenants with a 10 Day Notice to End Tenancy for Unpaid Rent dated July 23, 2020, and to recover the \$100.00 cost of their Application filing fee.

Two agents, A.C. and V.C., for the Landlord ("Agents") appeared at the teleconference hearing and gave affirmed testimony. However, no one attended on behalf of the Tenants, A.F. and L.R. The teleconference phone line remained open for over 30 minutes and was monitored throughout this time. The only persons to call into the hearing were the Agents, who indicated that they were ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct and that the only persons on the call, besides me, were the Agents.

As the Tenants did not attend the hearing, I considered service of the Notice of Dispute Resolution Hearing. Section 59 of the Act states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Agents testified that they served each Tenant with the Application, Notice of Hearing, and documentary submissions by Canada Post registered mail, sent on April 27, 2020. The Landlord provided Canada Post tracking numbers as evidence of service. I find that the Tenants were deemed served with the Notice of Hearing documents in accordance with the Act. I, therefore, admitted the Application and evidentiary documents, and I continued to hear from the Agents in the absence of the Tenants.

I explained the hearing process to the Agents and gave them an opportunity to ask questions about the hearing process. During the hearing the Agents were given the opportunity to provide their evidence orally and to respond to my questions. I reviewed

all oral and written evidence before me that met the requirements of the Residential Tenancy Branch (“RTB”) Rules of Procedure (“Rules”); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters

The Agents provided their email address in the Application and that of the Tenant, L.R., in the hearing. The Agents confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

At the outset of the hearing, I advised the Agents that pursuant to Rule 7.4, I would only consider their written or documentary evidence to which they pointed or directed me in the hearing.

### Issue(s) to be Decided

- Is the Landlord entitled to an order of possession?
- Is the Landlord entitled to a monetary order, and if so, in what amount?
- Is the Landlord entitled to recovery of the Application filing fee?

### Background and Evidence

The Agents stated that the fixed term tenancy ran for 18 months from November 15, 2017 through to May 14, 2019, and then operated on a month-to-month basis. They said the tenancy agreement requires the Tenants to pay the Landlord a monthly rent of \$2,400.00, due on the first day of each month. The Agents said that the Tenants paid the Landlord a security deposit of \$1,200.00, and no pet damage deposit.

The Agents said that the Tenants have not paid the Landlord any rent since January 2020. In the hearing they said:

We need to get our house back; they’ve taken over. We can’t get anything from them. These guys haven’t made an effort to pay anything – no attempt to give us one dollar. They have four cars: an aging Hummer, two BMWs, and a new’ish. Porsche. He said ‘good luck trying to get anything out of me’. He’s just trying to milk the time staying there. They’ll squat there as long as they can.

Repayment – I said come up with something. Make me an offer, let’s try to get this worked out, but he didn’t respond to me.

The Agents indicated that the amount of rent in arrears for these Tenants is as follows:

	Amount Owing per Month	Amount Paid	Amount Owing
1	\$2,400.00 February 2020	\$0.00	\$2,400.00
2	\$2,400.00 March 2020	\$0.00	\$2,400.00
3	\$2,400.00 April 2020	\$0.00	\$2,400.00
4	\$2,400.00 May 2020	\$0.00	\$2,400.00
5	\$2,400.00 June 2020	\$0.00	\$2,400.00
6	\$2,400.00 July 2020	\$0.00	\$2,400.00
7	\$2,400.00 August 2020	\$0.00	\$2,400.00
		<b>Total monetary order claim</b>	<b>\$16,800.00</b>

### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

I find that the timing of the events in the Landlord's evidence before me is internally inconsistent. The Agents said they served the Tenants with a 10 Day Notice to End Tenancy for Unpaid Rent regarding the unpaid rent in February and March 2020. The Landlords applied for an order of possession on April 23, 2020, in lieu of a 10 Day Notice they said was served earlier. However, they did not submit a copy of the 10 Day Notice that applied to this Application. Rather, they submitted a 10 Day Notice dated July 23, 2020. While the latter 10 Day Notice may be valid for subsequent unpaid rent, I find that it cannot apply to issues between the Parties that occurred prior to the Application date of April 23, 2020. I understand that the Parties have another hearing date on September 8, 2020; however, my Decision should not be relevant to that later Application

I find that the 10 Day Notice submitted into evidence before me is not applicable to this Application. I, therefore, **dismiss this Application wholly**, without leave to reapply, based on the Landlord's failure to submit a 10 Day Notice relevant to this Application, and pursuant to section 62 of the Act.

Conclusion

The Landlord's Application is dismissed without leave to reapply, as they failed to submit sufficient evidence to establish their claims for this Application on a balance of probabilities.

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: August 31, 2020

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Residential Tenancy Branch