



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPL, FFL

### Introduction

The landlords apply for an order of possession pursuant to a two month Notice to End Tenancy for landlord use of property dated September 8, 2020.

Neither respondent tenant attended for the hearing within 25 minutes after its scheduled start time at 9:30 a.m. on December 7, 2020. The teleconference hearing connection remained open during that time in order to enable the parties to call into the teleconference hearing. The call-in numbers and participant codes provided in the Notice of Hearing were confirmed as correct. The teleconference system audio console confirmed that the landlord AK and this arbitrator were the only ones who had called into this teleconference during that period.

AK testifies that he served the two month Notice on the tenants by registered mail sent September 8, 2020 to the rental unit, where the tenants continue to reside (Canada Post tracking number shown on cover page of this decision). Canada Post records show the mail was delivered on September 10. He says that shortly thereafter the tenant AT called him about the Notice, thus indirectly acknowledging receipt. He says the tenants did not apply to dispute the Notice. On this evidence I find that the tenants were served with the two month Notice.

AK testifies that he served the Notice of Dispute Resolution Proceeding by registered mail addressed to the rental unit (Canada Post tracking number shown on cover page of this decision). Canada Post records show that a card was left at the rental unit on November 10, informing the tenants of the mail and that it could be picked up. The records show that by December 3 the tenants had not retrieved the registered mail.

A person cannot avoid lawful service by registered mail by declining to claim the mail. I find the tenants have been duly served with proper notice of this proceeding.

The effective date in the two month Notice is November 30, 2020. By failing to challenge the Notice the tenants are conclusively presumed to have accepted the ending of their tenancy on that day (see. s. 49(9) of the *Residential Tenancy Act* (the “RTA”)). This tenancy ended on November 30, 2020, tenants are still in possession and so the landlords are entitled to an order of possession.

During this hearing it became apparent that the landlords failed to serve Notice of Dispute Resolution Proceeding within three days after making their application, contrary to s. 59(3) of the *RTA*. As the tenants did not attend to raise the issue of late service, I must decline to consider it.

The landlords will have an immediate order of possession.

I award the landlords recovery of the \$100.00 filing fee for this application and, with the agreement of AK, I authorize them to recover that \$100.00 from the security deposit that they hold.

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 07, 2020

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Residential Tenancy Branch