



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BCLTD Vogue Hotel Laudisio  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, for a monetary order for unpaid rent or utilities, and to recover the filing fee from the tenants.

The landlord's agents attended the hearing. As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord's agents testified the Application for Dispute Resolution and Notice of Hearing were served, by registered mail sent on January 27, 2021. Canada post tracking numbers were provided as evidence of service, the tenants did not appear.

Section 90 of the Act determines that a document served in this manner is deemed to have been served, five days later. I find that the tenants have been duly served in accordance with the Act.

I also note the Residential Tenancy Branch digital file show that the tenant SL contacted the Residential Branch to obtain information on how to upload evidence on March 26, 2021, and again on April 19, 2021 to obtain access codes to dial into the hearing. Yet the tenants filed no evidence and did not call into the hearing.

The landlord's agents, gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I also find it appropriate to amend the landlord's application pursuant to section 62 of the Act, to include subsequent unpaid rent since filing their application. I find this is not prejudicial to the tenants as rent is the most basic term of a tenancy.

### Issues to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order?

### Background and Evidence

The tenancy began on February 1, 2020. Rent in the amount of \$900.00 was payable on the first of each month. A security deposit of \$450.00 was paid by the tenants. Filed in evidence is a copy of the tenancy agreement.

The landlord's agent testified that the tenants did not pay any rent for January 2021 and were served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on January 2, 2021. The agents stated that the tenants were served in person, on January 2, 2021, which was witnessed by a third party. Filed in evidence is a copy of the Notice, and proof of service.

The landlord's agent stated that the tenants have failed to pay rent as follows:

Month	Rent due	Rent paid	Balance owed
January	\$900.00	0	\$ 900.00
February	\$900.00	\$450.00	\$ 450.00
March	\$900.00	\$450.00	\$ 450.00
April	\$900.00	\$450.00	\$ 450.00
Total due			<b>\$2,250.00</b>

The landlord seeks a monetary order for unpaid rent and an order of possession.

### Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

In this case, I accept the undisputed testimony of the landlord's agents that the tenants have failed to pay rent as shown above in the total amount of \$2,250.00. I find the tenants have breached section 26 of the Act, and this has caused losses to the landlord. Therefore, I find the landlord is entitled to a monetary order for unpaid rent in the amount of **\$2,250.00**.

I find that the landlord has established a total monetary claim of **\$2,350.00** comprised of unpaid rent, and the \$100.00 fee paid by the landlord for this application.

Although I have found the tenants have breached section 26 of the Act, I cannot consider the landlords request for an order of possession because the Notice does not meet the requirements of section 52 of the Act, as it is missing the effective date. Therefore, I dismiss this portion of the landlord's claim with leave to reapply.

The landlord is entitled to issue a new 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, this would include the rent I have ordered owed above. Simply because I have granted a monetary order for unpaid rent does not take away the landlords right to issue a notice to end tenancy for the unpaid rent.

However, I caution the tenants that since I have found the above rent is owed, this rent must be paid within five days of receiving any future notice to end the tenancy, as the tenants have no authority under the Act to withhold this rent. If rent is not paid I caution the tenants that they are at risk of their tenancy ending.

### Conclusion

The landlord is granted a monetary order. The landlord is granted leave to issue a new 10 Day Notice to End Tenancy for Unpaid Rent or Utilities base on the unpaid rent I have found owed, and any subsequent rent.

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: April 21, 2021

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Residential Tenancy Branch