



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR-DR, OPR-DR, FFL

### Introduction

The landlords seek an order of possession and a monetary order pursuant to sections 26, 55, 67, and 72 of the *Residential Tenancy Act* ("Act").

### Preliminary Issue: Service

The landlords' agent attended the hearing, but the respondent tenants did not. In such cases where a respondent does not attend, I must be satisfied that the respondent was properly served with the Notice of Dispute Resolution Proceeding. Such service must comply with the Act and the Residential Tenancy Branch's *Rules of Procedure*, and there must be evidence to support a finding that such service in fact occurred.

The landlords' agent confirmed that he served the Notices of Dispute Resolution Proceeding by registered mail, which is a permitted method of service under section 89 of the Act, on both tenants. The agent submitted into evidence documentary proof consisting of a Canada Post registered mail receipts and registered mail tracking numbers proving that the tenants were served by registered mail on December 3, 2021 and deemed served on December 8, 2021.

Given the evidence before me, it is my finding that the tenants were appropriately served with the Notices of Dispute Resolution Proceeding and documentary evidence necessary for them to participate fully in these proceedings.

### Issues

1. Are the landlords entitled to an order of possession?
2. Are the landlords entitled to a monetary order?

### Background and Evidence

Relevant oral and documentary evidence, complying with the *Rules of Procedure*, was carefully considered in reaching this decision. Only the evidence needed to explain the decision is reproduced below.

The tenants have lived rent-free for the entire duration of the tenancy, which began on May 1, 2021. Monthly rent is \$2,000.00 and this was payable on the first day of the month. There was supposed to be a \$1,000.00 security deposit, but the tenants failed to pay any of that amount, either. In evidence is a copy of a written tenancy agreement, which the landlords have signed, but which the tenants did not.

On September 14, 2021 the landlords served a 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”) by Canada Post registered mail. Documentary evidence pertaining to this service of the Notice was tendered into evidence. The Notice was never disputed by either tenant. A copy of the Notice is in evidence.

The landlords’ agent testified that as of February 2022, the tenants owe rent arrears in the amount of \$20,000.00. The tenants currently occupy the rental unit, and the landlords seek both an order of possession and a monetary order, including compensation for the cost of the application filing fee of \$100.00.

### Analysis

Rent must be paid when it is due under a tenancy agreement ([section 26\(1\)](#) of the Act). A landlord may issue a notice to end the tenancy under [section 46](#) of the Act if a tenant does not pay rent on time and in full.

If a tenant does not pay the amount of rent owing, or if they do not dispute the notice within 5 days, they are presumed to have accepted the notice and must vacate by the effective end of tenancy date indicated on the notice (section 46(5) of the Act).

A landlord may seek an order of possession and a monetary order if a tenant has not disputed the notice and the time for filing an application to dispute that notice has passed ([sections 55\(2\)\(b\) and 55\(4\)](#) of the Act).

In this dispute, the tenants were properly served with the Notice and did not dispute the Notice. As such, it is my finding that the tenants presumed to have accepted the Notice.

Given the above and taking into consideration all of the undisputed evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlords have met the onus of their application for an order of possession and for a monetary order. The landlords are hereby granted both an order of possession and a monetary order in the amount of \$20,100.00.

Copies of both orders are issued in conjunction with this decision to the landlords. The landlords must serve copies of both orders on the tenants by any means permitted under [section 88](#) of the Act.

### Conclusion

The application is hereby granted.

This decision is final and binding on the parties, and it is made on delegated authority under section 9.1(1) of the Act.

Dated: February 22, 2022

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Residential Tenancy Branch