



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR

### Introduction

On January 8, 2019, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for an order of possession for the rental unit and to recover the cost of the filing fee. The matter was set for a conference call hearing.

The Landlord’s agent (“the Landlord”) attended the teleconference hearing; however, the Tenant did not. The Landlord provided affirmed testimony that the Tenant was served the Notice of Dispute Resolution Proceeding by registered mail sent on January 9, 2019. The Landlord provided affirmed testimony that she sent the Notice of Dispute Resolution Proceeding documents to the Tenant at the dispute address. The Landlord provided a copy of the registered mail receipt as proof of service.

I find that the Tenant has been duly served with the Notice of Dispute Resolution Proceeding in accordance with sections 89 and 90 of the *Act*.

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

### Issues to be Decided

- Is the Landlord entitled to an order of possession due to unpaid rent?
- Is the Landlord entitled to recover the cost of the filing fee?

### Background and Evidence

The Landlord testified that she believes the tenancy began in July or August 2018.. She testified that the Tenant rents a self-contained basement suite and rent in the amount of \$600.00 is to be paid to the Landlord by the first day of each month.

The Landlord testified that the Tenant did not pay the rent owing under the tenancy agreement for the month of December 2018 and January 2019.

The Landlord testified that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated January 2, 2019, ("the 10 Day Notice"). The Landlord testified that the Tenant was served with the Notice in person with police in attendance. The Landlord provided a copy of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

The 10 Day Notice indicates that the Tenant has failed to pay rent in the amount of \$1,200.00 which was due on January 1, 2019. 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 has not paid any rent since receiving the 10 Day notice.

The Landlord seeks an order of possession for the rental unit.

The Landlord is not pursuing a monetary order for unpaid rent or the cost of the application fee because she feels the Tenant will not have the means to pay.

### Analysis

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant did not pay the rent owing under the tenancy agreement within five days of receiving the 10 Day 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 December 2018, and January 2019, 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 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: January 31, 2019

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Residential Tenancy Branch