



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This hearing dealt the landlord's request for an Order of Possession and a Monetary Order for unpaid rent. The tenant did not appear at the hearing. The landlord provided evidence that the tenant was notified of this hearing by registered mail sent on November 9, 2009. Upon enquiry, the landlord testified that she was notified by the park managers on November 25, 2009 that the windows of the manufactured home windows were smashed out. The landlord herself confirmed this to be true on November 29, 2009 when she attended the property and commented that it the manufactured home was no longer being lived in. The landlord submitted that to the best of her knowledge the tenant was residing at the rental site when the landlord mailed the hearing documents. I accepted that the landlord served tenant with the hearing documents in accordance with the requirements of the Act and I proceeded to hear from the landlord without the tenant present.

### Issues(s) to be Decided

1. Is the landlord entitled to an Order of Possession?
2. Is the landlord entitled to a Monetary Order?
3. Award of the filing fee.

### Background and Evidence

The landlord provided undisputed testimony as follows. The tenant is required to pay rent of \$320.00 on the 1<sup>st</sup> day of the month. The tenant had not paid rent for May, June, July, September or October 2009 and a *10 Day Notice to End Tenancy for Unpaid Rent* (the Notice) was issued and sent to the tenant via registered mail on October 19, 2009. The Notice indicates rent of \$1,600.00 was outstanding and that the tenant had five days to either dispute the Notice or pay the outstanding rent. The landlord explained that the tenant had been residing in the manufactured home park for several years and had often fallen behind in rent payments and then would catch up on the balance outstanding so that when the tenant failed to pay rent for a number of months the landlord was not overly surprised and anticipated the tenant would catch up as she had done in the past. Therefore, the landlord explained, she was very surprised to hear that the tenant appeared to have vacated.

The landlord has not entered the rental site and commented that the manufactured home has very little value, if any. The landlord was advised to contact the Residential Tenancy Branch for more information about abandoned property rules.

As evidence for the hearing, the landlord provided a copy of the Notice, the registered mail receipt for mailing of the 10 Day Notice, and the registered mail receipt for mailing of the hearing documents.

### Analysis

Upon consideration of all of the evidence before me, including the landlord's testimony and the documentary evidence, I am satisfied the tenant was served the 10 Day Notice and did not dispute the Notice or pay the outstanding rent. Since the 10 Day Notice was served by registered mail, it is deemed to have been received five days later on

October 24, 2009; therefore, the effective date is automatically changed to read November 3, 2009 in order to comply with the Act. Since the tenant did not dispute the Notice or pay the outstanding rent, pursuant to section 39 of the Act, the tenant is conclusively presumed to have accepted the end of the tenancy on the effective date of November 3, 2009.

In light of the above, I find the tenancy has ended and the landlord is entitled to regain possession of the rental site. If the rental site has been vacated or abandoned the landlord does not require an Order of Possession; however, in the event the tenant has not vacated or abandoned the rental site, and to ensure the landlord is able to regain possession of the rental site, the landlord is provided an Order of Possession effective two days after service upon the tenant. I further Order that the Order of Possession may be posted on the door of the manufactured home and it is deemed to be received by the tenant three days after it is posted. The Order of Possession may be filed in The Supreme Court of British Columbia and enforced as an Order of that court.

I also provide the landlord with a Monetary Order for the unpaid rent of \$1,600.00 up to and including the month of October 2009, as requested by the landlord with this application, and I award the filing fee paid for this application to the landlord. The landlord is at liberty to make a subsequent application for unpaid rent for November 2009 and any other damages or loss incurred and recoverable under the Act should the landlord be able to locate and serve the tenant within two years of the tenancy ending.

### Conclusion

The tenancy has ended and the landlord is entitled to regain possession of the rental site. In the event the rental site has not already been vacated or abandoned, the landlord is provided an Order of Possession effective two days after service upon the tenant. The Order of Possession may be posted on the rental unit door and the tenant is deemed to be served with the Order three days after it is posted. The landlord is

awarded monetary compensation of \$1,600.00 for unpaid rent and the filing fee of \$50.00 for a total Monetary Order of \$1,650.00 to serve upon 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: December 11, 2009.

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Dispute Resolution Officer