



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPR, MNR, FF

### **Introduction**

This is the Landlords' application for an Order of Possession; a Monetary Order for unpaid rent; and to recover the cost of the filing fee from the Tenant.

The Landlords gave affirmed testimony at the Hearing.

The manufactured home park is located in a rural area of British Columbia. The Landlord IA testified that he mailed the Notice of Hearing documents to the Tenant by registered mail, on April 5, 2011, to the post office box number provided by the Tenant on the Application for Tenancy. The Landlords provided the original receipt and tracking number in evidence. The Canada Post tracking system indicates that the documents were returned to the sender, unclaimed. Section 83 of the Act deems service of documents in this manner to be effected 5 days after mailing, whether or not the recipient chooses to accept delivery. Pursuant to the provisions of Section 64(2)(c) of the Act, I am satisfied that the Tenant was sufficiently served for the purposes of the Act.

In spite of being deemed served with the documents, the Tenant did not sign into the teleconference and the Hearing proceeded in his absence.

### **Issue(s) to be Decided**

- (1) Is the Landlord entitled to an Order of Possession?
- (2) Is the Landlord entitled to a monetary order for unpaid rent for the months of January, February, March and April , 2011?

## **Background and Evidence**

The Landlord JW testified that he personally served the Notice to End Tenancy issued March 18, 2011, upon the Tenant, by handing the documents to an adult person who apparently resides with the Tenant at the rental unit on March 27, 2011. The Landlord JW testified that the Tenant was present in the manufactured home, but would not come to the door.

The tenancy began on May 29, 2009. The Landlord inherited the tenancy on January 25, 2010, when he purchased the manufactured home park. Monthly rent is \$310.00, due on the first day of each month. The Tenant has not paid any rent since December, 2010. The Landlord is not sure if the Tenant remains in the rental unit, and therefore requests an Order of Possession.

## **Analysis**

I accept the Landlord's testimony that the Tenant was duly served with the Notice to End Tenancy in accordance with the provisions of Section 81(e) of the Act. The Tenant did not pay the rental arrears or dispute the Notice to End Tenancy within 5 days of being served with the Notice to End Tenancy. Pursuant to Section 39(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. In this case, the effective end to the tenancy was April 6, 2011.

Therefore, the Landlord is entitled to an Order of Possession and I make that order **effective 2 days after service of the Order upon the Tenant.**

Based on the undisputed testimony of the Landlord and the absence of any evidence to the contrary from the Tenant, the Landlords have established their claim, as follows:

Unpaid rent for January, 2011	\$310.00
Unpaid rent for February, 2011	\$310.00

Unpaid rent for March, 2011	\$310.00
Unpaid rent for April, 2011-04-28	<u>\$310.00</u>
TOTAL:	\$1,240.00
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The Landlords have been successful in their application and are entitled to recover the cost of the \$50.00 filing fee from the Tenant.

### **Conclusion**

I hereby provide the Landlords an Order of Possession **effective two days from service of the Order upon the Tenant**. This Order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby provide the Landlords a Monetary Order in the amount of **\$1,290.00** for service upon the Tenant. This Order may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an Order of that Court.

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 28, 2011.

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Residential Tenancy Branch