



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, OPC, MNR

### Introduction

This matter dealt with an application by the Landlords for an Order of Possession and a Monetary Order for unpaid rent.

The Landlords named two parties as Tenants on their application for Dispute Resolution, namely, T.V. and C.W. The Landlords said they served T.V. in person with the Application and Notice of Hearing (the "hearing package") on November 2, 2011 and T.V. admitted that she received these documents. The Landlords said on September 2, 2011 they served C.W. with the hearing package by registered mail to a post box number. However, according to the Canada Post online tracking system, this hearing package was returned to the Landlords' counsel as "undeliverable." Consequently, I find that C.W. was not served with the Landlords' hearing package as required by the Act and the style of cause is amended by removing him.

### Issue(s) to be Decided

1. Do the Landlords have grounds to end the tenancy?
2. Are there rent arrears and if so, how much?

### Background and Evidence

This tenancy started in November 1991. Rent was \$215.00 for all of 2009 and part of 2010. Effective March 1, 2010, rent was increased to \$225.00. Rent is due in advance on the 1<sup>st</sup> day of each month.

On October 12, 2011, an agent for the Landlords served the Tenant in person with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated October 11, 2011 and a One Month Notice to End Tenancy for Cause dated October 11, 2011. The Parties' agree that for each rent payment made by the Tenant, she was issued a receipt. The Landlords claim that based on their records (or copies of receipts), the Tenant has rent arrears of \$330.00 for 2009, rent arrears of \$1,180.00 for 2010 and rent arrears of \$1,275.00 for the period, January to November 2011, for a total of \$2,785.00.

The Tenant said she does not dispute the Notices to End Tenancy, however, she claimed that the amount sought by the Landlords for rent arrears was incorrect. The Tenant said she was given an amount from the Landlords in November 2010 which stated that the arrears were \$1,300.00 (which she believed included November 2010). The Tenant said she made 2 payments of \$300.00 each in November 2010 and 2 payments of \$300.00 each in December 2010 which the Landlords have not applied to the alleged rent arrears. The Tenant said she had a conversation with one of the Landlords, R.A., in January of 2011 in which he first claimed that she owed \$3,000.00 but then admitted that this amount was wrong and should be approximately \$900.00. The Tenant said she believes that the payments shown for 2011 are correct. The Tenant admitted that she received receipts for each of her rent payments however she claimed that she no longer had receipts prior to 2011.

The Landlord, R.A., denied having a conversation with the Tenant in January 2011 as she alleged. The Landlords admitted that they gave the Tenant something in writing in November 2010 advising her of the amount of rent arrears however they did not provide a copy of that at the hearing.

### Analysis

I find that the Tenant was served in person on October 12, 2011 with a One Month Notice to End Tenancy for Cause and a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. However, I find that the 10 Day Notice is of no force and effect because it does not clearly state when the rent arrears were due but instead says, "various, 09-11." However, I find that the One Month Notice to End Tenancy for Cause is an enforceable Notice.

Section 40(4) of the Act states that a Tenant may dispute a One Month Notice to End Tenancy for Cause by applying for Dispute Resolution **within 10 days of receiving the Notice.** If a Tenant does not apply to cancel a One Month Notice within this time frame, then under section 40(5) of the Act, they are conclusively presumed to have accepted that the tenancy will end on the effective date of the Notice and they must vacate the manufactured home site at that time. I find that the Tenant has not applied to dispute the One Month Notice to End Tenancy for Cause and therefore I find pursuant to s. 48(2)(b) of the Act that the Landlords are entitled to an Order of Possession to take effect on November 30, 2011.

The Tenant did not dispute the amount claimed for unpaid rent by the Landlords for 2011, however she claimed that the rent arrears alleged for 2009 and 2010 were not correct. The Landlords claimed that based on their records, the Tenant has total rent arrears of \$2,785.00. Where the evidence of the Parties differs on this issue, I prefer the evidence of the Landlords as it was at all times available to the Tenant to provide copies of receipts to show that she made the payments she claims were not accounted for by the Landlords. Consequently, I find on a balance of probabilities that there are rent arrears of \$2,785.00 and I award the Landlords that amount. I also find that the

Landlords are entitled pursuant to s. 65 of the Act to recover the \$50.00 filing fee for this proceeding.

Conclusion

An Order of Possession to take effect on November 30, 2011 and a Monetary Order in the amount of **\$2,835.00** have been issued to the Landlords. A copy of the Orders must be served on the Tenant; the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: November 22, 2011.

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Residential Tenancy Branch