



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR and FF

This application was brought by the landlord on May 11, 2012 seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served by posting on the tenant's door on April 25, 2012. The landlord also sought a Monetary Order for unpaid rent and recovery of the filing fee for this proceeding.

Despite having been served with the Notice of Hearing served by posting on the tenant's door on May 16, 2012, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

### Issue(s) to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession and a Monetary Order as requested. .

### Background and Evidence

This manufactured home site tenancy began in approximately 1980 according to the landlord and pad rent is currently \$254 per month.

During the hearing, the landlord gave evidence that the Notice to End Tenancy of April 26, 2012 was served when the tenant had failed to pay any of the pad rent due since December 2011, resulting in a rent arrears of \$1,519 when the Notice to End Tenancy was served in April 2012.

In the interim, the tenant has not paid rent for May or June 2012.

By way of explanation, the landlord stated that the tenant had advised him in November 2011 that he would be leaving the manufactured home but that his son would be moving in and taking over the pad rent. The tenant was asked to have the son attend the park office to complete an application form. The son has never done so.

According to the landlord, neither the tenant nor the son has been seen since and he has no contact information for either. He said the apparently abandoned manufactured home is deteriorating and has been the subject of complaints from other tenants.

Therefore, the landlord requested an Order of Possession as soon as possible and a Monetary Order for the unpaid rent and recovery of the filing fee for this proceeding.

### Analysis

Section 20 of the *Act* provides that tenants must pay rent when it is due.

Section 39 of the *Act* provides that a landlord may issue a Notice to End Tenancy for unpaid rent on a day after the rent is due. The tenant may cancel the notice by paying the overdue rent or make application to dispute the notice within five days of receiving it.

In this instance, I find that the tenant did not pay the rent within five days of receiving the notice and did not make application to dispute it.

Therefore, under 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 to End Tenancy which would have been May 9, 2012 taking into account the three days deemed service of notice served by posting.

Accordingly, I find that the landlord is entitled to an Order of Possession to take effect two days from service of it on the tenant.

However, I am not able to provide the landlord with a Monetary Order as a Notice of Hearing respecting a monetary claim must be served as prescribed at section 82(1) of the *Act*.

Therefore, the claim for a Monetary Order is dismissed with leave to reapply.

### Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect two days from service.

The landlord remains at liberty to make application to claim any damage or losses, including the unpaid rent, as may be ascertained following the conclusion of the tenancy.

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: June 05, 2012.

---

Residential Tenancy Branch