



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes:

CNR, MT, FF

### Introduction

This hearing was scheduled in response to the Tenant's Application for Dispute Resolution, in which the Tenant has made application to set aside a Notice to End Tenancy for Cause, for more time to apply to set aside a Notice to End Tenancy, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

During the hearing both parties indicated that they understood that this dispute related to a Ten Day Notice to End Tenancy for Unpaid Rent. The Application for Dispute Resolution has therefore been amended to show that the Tenant is applying to set aside a Notice to End Tenancy for Unpaid Rent.

The Tenant applied to set aside the Notice to End Tenancy within the time frame required by the *Manufactured Home Park Tenancy Act (Act)* and I therefore find there is no reason to consider the Tenant's application for more time to apply to set aside a Notice to End Tenancy.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

The Landlord submitted one document to the Residential Tenancy Branch, a copy of which was served to the Tenant. The Tenant acknowledged receipt of the Landlord's evidence and it was accepted as evidence for these proceedings. The Tenant submitted no evidence for these proceedings.

### Issue(s) to be Decided

The issue to be decided is whether the Notice to End Tenancy for Unpaid Rent, served pursuant to section 40 of the *Act*, should be set aside and whether the Tenant is entitled to recover the fee for this Application for Dispute Resolution.

### Background and Evidence

The Landlord and the female Tenant agree they entered into a verbal agreement that allowed the Tenant to keep a manufactured home on the Landlord's property, for which the Tenant agreed she would pay monthly rent of \$200.00. The Landlord stated that the rent was due by the fifteenth day of each month and the female Tenant stated that it simply needed to be paid sometime during each month.

The Landlord and the Tenant agree that the Tenant did not pay any rent for the period between September of 2011 and May of 2012 and that no rent was paid for July of 2012. The Landlord stated that \$200.00 was deposited into her account in June of 2012, that the Tenant often paid her rent by direct deposit, and that she assumed the \$200.00 deposit was a rent payment from June of 2012. The male Respondent stated that they did not pay rent for June of 2012.

The male Respondent stated that they stopped paying rent because the Landlord's property was appraised and that she informed the appraiser that she owned the manufactured home. He stated that the Landlord made no attempts to collect the rent, although he acknowledged they had previously paid the rent by depositing it directly into the Landlord's bank account.

The Landlord and the Tenant agree that a Ten Day Notice to End Tenancy for Unpaid Rent, which had a declared effective date of July 15, 2012, was mailed to the Tenant. The Landlord stated that it was mailed on June 27, 2012 and the male Respondent stated that it was received in the mail sometime during the latter part of June. The Notice indicated that the Notice would be automatically cancelled if the Landlord received \$1,800.00 within five days after the Tenant is assumed to have received the Notice. Neither party submitted a copy of the Notice but they mutually agreed to the content of the Notice.

### Analysis

On the basis of the undisputed evidence presented at the hearing, I find that the Landlord and the female Tenant entered into a verbal agreement which required the female Tenant to pay monthly rent of \$200.00 for the right to keep her manufactured home on the Landlord's property.

Section 20(1) of the *Act* stipulates, in part, that a tenant must pay rent when it is due unless the tenant has a right under the *Act* to deduct all or a portion of the rent. In the circumstances before me, there is no evidence to indicate that the Tenant has the right to deduct any portion of the rent. On the basis of the undisputed evidence presented at the hearing, I find that the Tenant did not pay any rent for the period between September 01, 2011 and May 31, 2012.

Section 39(1) of the *Act* stipulates, in part, that a landlord may end a tenancy if the tenant fails to pay rent that is due by giving notice to end the tenancy. On the basis of the undisputed evidence presented at the hearing I find that the Landlord mailed a Ten Day Notice to End tenancy for Unpaid Rent on June 27, 2012.

### Conclusion

After considering all of the written and oral evidence submitted at this hearing, I find that the Landlord has grounds to end this tenancy pursuant to section 39 of the *Act*. I therefore dismiss the Tenant's application to set aside the Notice to End Tenancy and I grant the Landlord an Order of Possession, as requested at the hearing, that is effective two days after it is served upon the Tenant.

I find that the Tenant's application is without merit, and I dismiss the Tenant's application to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution.

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

Dated: July 23, 2012.

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Residential Tenancy Branch