



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: ET/OP

### Introduction

This hearing concerns the landlord's application to end tenancy early and to obtain an order of possession. The landlord's agent participated in the hearing and gave affirmed testimony. Despite service of the application for dispute resolution and notice of hearing (the "hearing package") on September 25, 2012, the tenant did not appear. The landlord's agent testified that the hearing package was served by way of posting on the tenant's door, and that the tenant was witnessed taking delivery of the package by removing it from his door on that same date.

### Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the tenancy began on July 1, 2009. Monthly pad rent is \$338.00.

Arising from an appearance in Provincial Court on September 19, 2012, the tenant was placed on a bail order. In a letter to the landlord by date of September 20, 2012, the tenant's probation officer informed the landlord, in part, as follows:

A condition of this order has been imposed for your protection, specifically, that [the tenant] is to have no direct or indirect contact with you. This means that he is not to contact you in person or by telephone, e-mail / text message / computer, letters or through a third party. This also means that you should not have contact with [the tenant].

### Analysis

Section 64 of the Act speaks to **Director's orders: delivery and service of documents**, and provides in part:

64(2) In addition to the authority under subsection (1), the director may make any of the following orders:

(b) that a document has been sufficiently served for the purposes of this Act on a date the director specifies;

(c) that a document not served in accordance with section 81 or 82 is sufficiently given or served for purposes of this Act.

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agent, I find that the hearing package was sufficiently served for the purposes of this Act on September 25, 2012.

Section 49 of the Act addresses **Application for order ending tenancy early**, and provides in part as follows:

49(2) The director may make an order specifying the date on which the tenancy ends and the effective date of the order of possession only if satisfied that,

(a) the tenant or a person permitted in the manufactured home park by the tenant has done any of the following:

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the manufactured home park;
- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
- (iii) put the landlord's property at significant risk;

(b) it would be unreasonable, or unfair to the landlord or other occupants of the manufactured home park, to wait for a notice to end the tenancy under section 40 [*landlord's notice: cause*] to take effect.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

Again, on the basis of the documentary evidence and the affirmed / undisputed testimony of the landlord's agent, I find that the landlord has met the burden of proving that the tenant has "significantly interfered with or unreasonably disturbed the landlord" or "seriously jeopardized the health or safety or a lawful right or interest of the landlord." Accordingly, I find that the landlord has established entitlement to end tenancy early and obtain an order of possession.

### Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia 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 *Manufactured Home Park Tenancy Act*.

Dated: October 09, 2012.

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Residential Tenancy Branch