



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Sage & Sands Trailer Park  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, FF, ET

### Introduction

This hearing dealt with the landlord's application pursuant to the *Manufactured Home Park Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid payment of pad rental pursuant to section 48;
- a monetary order for unpaid pad rent pursuant to section 60;
- authorization to recover the filing fee for this application from the tenant pursuant to section 65; and
- an early end to this tenancy and an Order of Possession pursuant to section 49.

The tenant did not attend this hearing, although I waited until 11:17 a.m. in order to enable him to connect with this teleconference hearing scheduled for 11:00 a.m. The landlords attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions. The female landlord (the landlord) testified that she posted a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenant's door on March 2, 2013. The male landlord gave sworn testimony that he witnessed the female landlord (his sister) post the 10 Day Notice on the tenant's door on March 2, 2013. The landlord testified that she sent the tenant a copy of the landlords' dispute resolution hearing package to the tenant's correct post office box mailing address by registered mail on March 22, 2013. She entered into written evidence a copy of the Canada Post Tracking Number and Customer Receipt to confirm this registered mailing. I am satisfied that the landlords served the above documents to the tenant in accordance with the *Act*.

At the hearing, I asked for clarification of the landlords' inclusion of both a request for an early end to tenancy and an Order of Possession based on the non-payment of pad rental in the landlords' application for dispute resolution. The landlord testified that she was unfamiliar with the application process and, after a discussion of the nature of her application, she withdrew the landlords' application for an early end to tenancy.

Issues(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid pad rental? Are the landlords entitled to a monetary award for unpaid pad rental? Are the landlords entitled to recover the filing fee for their application from the tenant?

Background and Evidence

This tenancy for the rental of a manufactured home park site (pad) commenced in 1989. The tenant owns the manufactured home on the landlord's pad site in a manufactured home park. The current monthly pad rent is set at \$182.00, payable in advance on the first of each month.

The landlord issued the 10 Day Notice for unpaid rent of \$995.00 owing as of March 2, 2013. The landlord's application for a monetary award of \$995.00 included \$85.00 owed for October 2012, and \$182.00 for each of the five months from November 2012 to March 2013. At the hearing, the landlord requested permission to amend the application to \$1,177.00, to reflect the tenant's failure to pay rent for April 2013, which also remains owing.

Analysis

The tenant failed to pay the unpaid rent identified as owing within five days of being deemed served with the 10 Day Notice on March 5, 2013. The tenant has not made application pursuant to section 39(4) of the *Act* within five days of being deemed served with the 10 Day Notice. In accordance with section 39(5) of the *Act*, the tenant's failure to take either of these actions within five days led to the end of his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by March 16, 2013. As that has not occurred, I find that the landlord is entitled to an Order of Possession to take effect by 1:00 p.m. on April 30, 2013. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the manufactured home park site by the date required, the landlord may enforce this Order in the Supreme Court of British Columbia.

I find undisputed evidence that the tenant has failed to pay \$85.00 of pad rental for October 2012, and \$182.00 for each of the six months from November 2012 through April 2013. I issue a monetary Order in the landlords' favour to allow the landlords to recover this unpaid rent from the tenant. As the landlords have been successful in their application for dispute resolution, I allow the landlords to recover their filing fee from the tenant.

Conclusion

The landlords are provided with a formal copy of an Order of Possession effective by 1:00 p.m. on April 30, 2013. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia. The landlords' application for an early end to tenancy is withdrawn.

I issue a monetary Order in the landlords' favour under the following terms for unpaid pad rental and recovery of the landlords' filing fee.

<b>Item</b>	<b>Amount</b>
Unpaid October 2012 Pad Rental	\$85.00
Unpaid Pad Rental from November 2012 – April 2013 (6 months @ \$182.00 = \$1,092.00)	1,092.00
Recovery of Filing Fee for this Application	50.00
<b>Total Monetary Order</b>	<b>\$1,227.00</b>

The landlords are provided with these Orders in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: April 18, 2013

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Residential Tenancy Branch

