



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** DRI, CNR, FF

### **Introduction**

This Hearing was scheduled to hear the Tenant's application to dispute an additional rent increase; to cancel a 10 Day Notice to End Tenancy for unpaid rent issued October 3, 2013 (the "Notice"); and to recover the cost of the filing fee from the Landlord.

Both parties signed into the teleconference and provided affirmed testimony.

It was determined that the Tenant hand delivered the Notice of Hearing package and his documentary evidence to the Landlord's agent and that the Tenant had received the Landlord's documentary evidence by mail on October 15, 2013.

### **Issue(s) to be Decided**

- (1) Was there an additional rent increase and if so, was it a valid increase?
- (2) Should the Notice be canceled?

### **Background and Evidence**

The Tenant purchased his mother's manufactured home and entered into a tenancy agreement with the Landlord on September 19, 2013. A copy of the tenancy agreement was provided in evidence.

Monthly rent under the tenancy agreement is \$415.00, due on the first day of each month. The tenancy began on October 1, 2013.

The Tenant did not pay rent in full on October 1, 2013. On October 2, 2013, the Tenant paid \$350.00 towards October rent. On November 4, 2013, the Tenant also paid only \$350.00 towards November rent. The Landlord provided the Tenant with written notice that his partial payment was accepted for use and occupancy only and that the Landlord was not reinstating the tenancy and the Tenant would have to move. A copy of the Landlord's notice was provided by both parties.

The Tenant testified that his mother paid only \$330.33 for monthly rent and that he was told he could assume his mother's tenancy agreement. The Tenant testified that he gave the Landlord's agent "DT" an application for written permission to take over his mother's lease on September 19, 2013. He stated that DT told him he would have to check with the owner and told the Tenant to sign the tenancy agreement and that it would be worked out later. DT provided no written documentation or oral testimony to support the Tenant's submission.

The Landlord testified that no such document for assignment was received by the Landlord. He stated that he cautioned the Tenant to read the Act and warned the Tenant to pay rent in full or his tenancy would be in jeopardy.

The Landlord testified that the Notice was handed to the Tenant at the rental site on October 3, 2013. The Landlord stated that he was concerned because the Tenant had paid late for both months of the tenancy and that the Tenant was making renovations to the manufactured home without the Landlord's permission. The Landlord asked for an Order of Possession effective 2 days after service of the Order upon the Tenant.

### **Analysis**

I find that the Tenant provided insufficient evidence of any agreement between himself and the Landlord which provided that the monthly rent was \$330.33 or \$350.00. I find that the tenancy agreement entered into by the parties on September 19, 2013, is a valid tenancy agreement and that monthly rent is \$415.00, plus \$30.00 for utilities. **I do not find that there was an additional or illegal rent increase.**

Section 20(1) of the Act states:

#### **Rules about payment and non-payment of rent**

**20** (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I find that the Tenant had no right under the Act to deduct a portion of the rent. The Tenant's remedy would have been to pay rent in full and to file an Application for Dispute Resolution for an Order allowing him to reduce rent. If the arbitrator found that he had overpaid rent, then the Tenant would have been provided with a monetary award, or would have been authorized to deduct an amount from future rent.

The Tenant did not pay rent in full when it was due and therefore, I find that the Notice is a valid notice to end the tenancy. The Tenant's application to cancel the Notice is **dismissed without leave to reapply.**

48(1) of the Act states:

**Order of possession for the landlord**

**48** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the manufactured home site to the landlord if, at the time scheduled for the hearing,

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

I accept the Landlord's agent's testimony that the Tenant was duly served with the Notice on October 3, 2013. In this case, the effective end of tenancy date was October 13, 2013.

Therefore, I find that the Landlord is entitled to an Order of Possession and I make that order **effective 2 days after service of the Order upon the Tenant.**

**Conclusion**

The Tenant's application is **dismissed without leave to re-apply.**

I grant the Landlord an Order of Possession **effective two days from service of the Order upon the Tenant.** This 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: November 15, 2013

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Residential Tenancy Branch

