



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Caesar and Elliott Group  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR, OPR, MNR, MT

### Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. The tenant has filed an application seeking to have the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities set aside and an order to allow the tenant access to and the unit or site for the tenant or the tenants' guests. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

### Issues to be Decided

Is either party entitled to any of the above under the Act, regulation or tenancy agreement?

### Background and Evidence

The landlord gave the following testimony:

The tenancy began on or about October 1, 2011. Rent in the amount of \$439.00 is payable in advance on the first day of each month. The tenant failed to pay rent in the month(s) of December 2013 and on December 2, 2013 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of January 2014. The January rent was set to increase to \$460.00 per month. The landlord is seeking the recovery of both months for a total of \$899.00 in unpaid rent. The landlord stated that the first offer of rent was made on December 12, 2013. The landlord stated that he didn't want to accept funds from a third party as he was unsure what the

course of action was since the matter was pending and the landlords wished for the tenancy to end and obtain an order of possession.

The tenant, advocate and witnesses gave the following testimony:

The advocate and the tenant provided an outline of events that occurred to explain the late payment offer. On November 26, 2013 the tenant had the rent money in cash in her purse. The tenant believes a friend of hers stole the money from her. The tenant made a police report for the theft. The tenant made many inquiries with government agencies and offices but found them unable to assist. The tenant had witnesses give testimony to confirm her attempts and the steps she took to arrange for the funds to pay her rent. The tenant was able to collect the funds through a friend and an agency that helps in crisis situations. The tenants advocate and the tenant stated that the first payment attempt was made on December 9, 2013. Subsequent attempts were made but the landlord refused payment. The "Ministry" provided a cheque for \$479.00 to the landlord that wasn't cashed or returned as of today's hearing. The tenant stated that the park manager is a vindictive woman that has gone out of her way to try to evict her. The tenants' advocate stated that the tenant took all reasonable steps to pay the rental arrears and asks under these extenuating circumstances that allowances be made and have the tenancy continue.

### Analysis

The relationship between the parties is an acrimonious one. The level of hostility and anger was apparent throughout the hearing. The tenants advocate and the tenant acknowledged and agreed that the first offer to pay the rent was on December 9, 2013; seven days after receiving the notice.

The tenant did not pay the outstanding rent within 5 days of receiving the notice; there was no dispute to this fact. Although the tenant did apply for dispute resolution to dispute the notice the tenant did not file within five days of receiving the notice as required nor was she able to provide sufficient evidence to set the notice aside. Based

on the above facts I find that the landlord is entitled to an order of possession. The tenant must be served with the order of possession. 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.

As for the monetary order, I find that the landlord has established a claim for \$899.00 in unpaid rent. I grant the landlord an order under section 67 for the balance due of \$899.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

The tenant has not been successful in her application.

#### Conclusion

The landlord is granted an order of possession and a monetary order for \$899.00.

The tenants' application is dismissed in its entirety.

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: January 13, 2014

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Residential Tenancy Branch

