



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding WILDWOOD MOBILE HOME PARK  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR MNR FF

### Introduction

This hearing dealt with an Application for Dispute Resolution under the *Manufactured Home Park Tenancy Act* (the “Act”) by the landlord for an order of possession for unpaid site rent, for a monetary order for unpaid site rent, and to recover the filing fee. The landlord’s application also includes a monetary claim for a non-sufficient funds fee, (the “NSF fee”), and late fees.

An agent for the landlord, (the “agent”), appeared at the teleconference hearing and gave affirmed testimony. During the hearing the agent was given the opportunity to provide her evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the “Notice of Hearing”) was considered. The agent testified that the tenant was served with a package that included the Notice of Hearing and evidence on January 10, 2014, via registered mail addressed to the tenant at the rental site address. A registered mail tracking number was submitted in evidence. The agent stated that the registered mail package was returned as “unclaimed”. Documents served by registered mail are deemed served five days after they are mailed pursuant to section 83 of the *Act*. Based on the above, I am satisfied that the tenant was deemed served as of January 15, 2014.

### Issues to be Decided

- Is the landlord entitled to an order of possession under the *Act*?
- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?

### Background and Evidence

The tenancy agreement was submitted in evidence. A month to month tenancy began on February 17, 2007. Monthly site rent was originally \$550.00 per month and due on the first day of each month. Each year, the monthly rent increased under the *Act* to the current amount of monthly site rent, \$670.00.

The agent confirmed service of the 10 Day Notice for Unpaid Rent or Utilities, (the “10 Day Notice”), which was posted to the tenant’s door on December 16, 2013. The 10 Day Notice listed \$670.00 owing due December 1, 2013, and had an effective vacancy date of December 27, 2013. The agent stated that the tenant failed to pay any rent for the month of December 2013, January 2014, and February 2014, and that the manufactured home remains on the rental site. The agent stated that the tenant did not dispute the 10 Day Notice or pay any rent since being served with the 10 Day Notice.

The landlord’s monetary claim is for \$2,085.00 comprised of the following:

Item 1. Unpaid site rent for December 2013	\$670.00
Item 2. NSF fee for December 2013 returned cheque	\$25.00
Item 3. Unpaid site rent for January 2014	\$670.00
Item 4. Late fee for January 2014	\$25.00
Item 5. Unpaid site rent for February 2014	\$670.00
Item 6. Late fee for February 2014	\$25.00
<b>TOTAL</b>	<b>\$2,085.00</b>

### Analysis

Based on the documentary evidence and the undisputed testimony provided during the hearing, and on the balance of probabilities, I find the following.

**Order of Possession** – I find that the tenant failed to pay the site rent for the month of December 2013, January 2014 and February 2014, or dispute the 10 Day Notice within 5 days after receiving the 10 Day Notice. The tenant is conclusively presumed pursuant to section 39 of the *Act*, to have accepted that the tenancy ended on the corrected effective vacancy date of the 10 Day Notice which automatically corrects under the *Act* from December 27, 2013 to December 29, 2013. Accordingly, **I grant** the landlord an order of possession **effective two (2) days after service on the tenant**. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

**Claim for unpaid site rent** – The agent testified that site rent of \$670.00 for the months of December 2013, January 2014, and February 2014 have not been paid by the tenant. The agent has claimed late fees of \$25.00 for the months of January 2014 and February 2014, and an NSF fee of \$25.00 for December 2013 for the returned cheque of the tenant. Pursuant to section 20 of the *Act*, a tenant must pay site rent when it is due in accordance with the tenancy agreement.

Based on the above, I find that the tenant has failed to comply with a standard term of the tenancy agreement which stipulates that site rent is due monthly on the first of each month. The rental site continues to be occupied as a manufactured home remains on the rental site. The landlord will not regain possession of the unit until after service of the order of possession. I find the landlord has met the burden of proof for unpaid rent for the months of December 2013, January 2014 and February 2014 at \$670.00 for each of those months, plus the NSF fee of \$25.00 and two late fees of \$25.00 each as claimed.

Based on the above, I find the landlord has established a monetary claim of **\$2,085.00** comprised of unpaid rent, late fees and an NSF fee as claimed.

As the landlord has succeeded with their application, **I grant** the landlord the recovery of the **\$50.00** filing fee.

**Monetary Order** – **I grant** the landlord a monetary order pursuant to section 60 of the *Act* in the amount of **\$2,135.00** comprised of \$2,085.00 in unpaid rent, an NSF fee and two late fees, plus the \$50.00 filing fee. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

### Conclusion

The landlord has been granted an order of possession effective two (2) days after service on the tenant. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

The landlord has been granted a monetary order under section 60 of the *Act* in the amount of \$2,135.00. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: February 20, 2014

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Residential Tenancy Branch

