



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This matter was conducted by way of a Direct Request Proceeding, pursuant to Section 48(4) of the *Manufactured Home Park Tenancy Act* (the "Act") in response to a Landlord's application for an Order of Possession and a Monetary Order for unpaid rent.

The Landlord's Power of Attorney (the "Landlord's agent") submitted a signed Proof of Service of the Notice of Direct Request Proceeding documents which declares that the Tenant was personally served with the documents in the presence of a witness but refused to sign for them. As a result, they were posted to the Tenant's door.

Based on this evidence, I am satisfied that the Tenant was personally served in accordance with Section 82(1) (a) of the Act with the documents as the Tenant was made aware of the documents and they were left in the Tenant's vicinity on September 19, 2014.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession for unpaid rent?  
Has the Landlord established a monetary claim against the Tenant for unpaid rent?

### Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement signed by the Landlord and Tenant on May 23, 2012 for a tenancy commencing on the same day. The agreement requires the Tenant to pay monthly rent in the amount of \$425.00 on the last business day of each month;

- A copy of a two page 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") issued on September 10, 2014 with an effective vacancy date of September 20, 2014, due to \$840.00 in unpaid rent, due on September 1, 2014
- A copy of the Proof of Service of the Notice which declares that the Notice was served by the Landlord's agent on September 10, 2014 by attaching it to the Tenant's door. The Landlord signed the Proof of Service document to verify this method of service;
- The Landlord's Application for Dispute Resolution made on September 19, 2014 claiming outstanding rent of \$840.00 comprising of unpaid rent for January and September, 2014.
- Another Notice dated January 3, 2014 showing an outstanding amount of \$440.00 that was payable on January 1, 2014.
- A Notice of rent Increase issued to the Tenant which requires the Tenant to pay the new rent amount of \$440.00 starting on November 31<sup>st</sup>, 2013.

### Analysis

I have reviewed the documentary evidence and I accept that the amount payable at the time the Notices were issued was \$440.00 per month as evidenced by the Notice of Rent Increase. I also accept that the Landlord served the Tenant with a Notice that complied with the Act, by attaching it to the door with a witness on September 10, 2014.

Section 83(c) of the Act states that documents served in this manner are deemed to have been received three days after being attached to the door. Therefore, I find that the Tenant was deemed to be served on September 13, 2014, and the effective date of vacancy on the Notice is automatically changed to September 23, 2014 pursuant to Section 46 of the Act.

I accept the evidence before me that the Tenant has failed to dispute the Notice or pay the outstanding amount of rent owed, which had accumulated to \$840.00 when the second Notice was served to the Tenant, within the five days provided under Section 39(4) of the Act. Therefore, I find that the Tenant is conclusively presumed under Section 39(5) of the Act to have accepted that the tenancy ended on the corrected vacancy date of the Notice. I therefore find that the Landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent.

Conclusion

For the reasons set out above, I find the Landlord is entitled to an Order of Possession effective **2 days after service on the Tenant**. This order must be served on the Tenant and may be filed and enforced in the Supreme Court as an order of that court.

I further grant a Monetary Order in the amount of **\$840.00** in favor of the Landlord pursuant to Section 60 of the Act. 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 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 01, 2014

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Residential Tenancy Branch

