



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SUMMERLAND BEACH RV PARK  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This matter dealt with an application by the Landlord for An Order of Possession, a Monetary Order for unpaid rent and utilities and to recover the filing fee for this proceeding.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by personal delivery on October 23, 2014. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

### Issues(s) to be Decided

1. Are there rent and utility arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent and utilities and if so how much?
3. Is the Landlord entitled to end the tenancy?

### Background and Evidence

This tenancy started on April 1, 2013 as a fixed term tenancy for 1 year and then continued on a month to month tenancy. Rent is \$459.90 per month payable at the end of the month. The Landlord said the Tenant is living on the site pad and he requested an Order of Possession with an effective date for as soon as possible if his application is successful.

The Landlord said that the Tenant did not pay \$696.38 of rent and \$38.15 of unpaid utilities for August, 2010 when it was due and as a result, on August 7, 2014 he personally delivered a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated August 7, 2014 to the Tenant. The Landlord continued to say that the Tenant also has unpaid rent of \$459.90 for each month of September, October, November and December, 2014. In addition to the unpaid rent the Landlord said the Tenant has

unpaid utilities in the amount of \$179.24 for the time period from July to December, 2014.

The Landlord said his total claim is \$2,715.22 plus the filing fee of \$50.00.

The Tenant agreed that the rent was unpaid, but the Tenant said that she tried to pay the Landlord and he refused to take the payment. The Tenant said the Landlord said she was evicted whether the rent was paid or not. Consequently the Tenant stopped paying the rent. The Tenant said that she had been late many time before and it was always OK with the Landlord so she did not understand why it was different this time.

The Landlord said he has never not accepted rent. As well the Landlord said to the Tenant that he was going to proceed with the eviction whether rent was paid or not because he was frustrated with the tenancy.

The Tenant said in closing that it is unfortunate that it has come to this but it is what it is and she stands by her testimony that the Landlord refused her rent.

The Landlord said in closing that he is requesting an Order of Possession for as soon as possible if he is successful.

### Analysis

Section 39(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must pay the overdue rent or apply for dispute resolution. If the Tenant fails to do either of these things, then under section 39(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy on the day it was served, or on August 7, 2014. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than August 12, 2014.

I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 48(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

I also find that the Landlord is entitled to recover unpaid rent for August through to December, 2014 in the amount of \$2,535.98 and unpaid utilities in the amount of \$179.24, for a total of unpaid rent and utilities of \$2,715.22.

As the Landlord has been successful in this matter, the Landlord is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. The Landlord will receive a monetary order for the balance owing as following:

Rent arrears:	\$ 2,535.98
Unpaid Utilities	\$ 179.24
Recover filing fee	\$ 50.00
Subtotal:	\$2,765.22

### Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$2,765.22 have been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: December 02, 2014

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Residential Tenancy Branch

