



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Sunrise Valley Trailer Park and 0868732 BC Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      For the tenant: CNR, MT  
For the landlord: OPR, MNR, FF

### Introduction

This hearing was convened as the result of the cross applications of the parties for dispute resolution seeking remedy under the *Manufactured Home Park Tenancy Act* ("Act")

The tenant applied for an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("Notice") and for an order granting more time to make an application to cancel a notice to end tenancy. The landlord submitted that she was not aware the tenant had an application for dispute resolution as the landlord had not been served their application or notice of their hearing.

The landlord applied for an order of possession for the manufactured home site due to unpaid rent, a monetary order for unpaid rent, and for recovery of the filing fee paid for this application.

The landlords' agent/park manager (hereafter "landlord") attended the hearing; the tenant did not attend.

The landlord stated that they served the tenant their application for dispute resolution and notice of hearing letter by registered mail on April 23, 2015. The landlord provided the tracking number for the registered mail and said the mail has not been returned to them.

Based upon the landlords' submissions, I find the tenant was served notice of this hearing in a manner complying with section 82(1) of the Act, and the hearing proceeded on the landlords' application in the tenant's absence.

Thereafter the landlord was provided the opportunity to present her evidence orally, refer to documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed the oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

*Procedural matter*-Despite having her own application for dispute resolution set for hearing on this date and time, the application of the landlords and the notices of these hearings, the tenant did not appear.

Therefore, pursuant to section 10.1 of the Rules, I dismiss the application of the tenant, without leave to reapply.

*Preliminary matter#2*-The landlord listed a respondent/tenant, "CR", who was not named in the written tenancy agreement. I have no evidence that a tenancy was formed between the landlord and CR, and I have therefore amended their application to exclude CR from further consideration in this matter.

#### Issue(s) to be Decided

Is the landlord entitled to an order of possession for the manufactured home site due to unpaid rent, monetary compensation, and to recovery of the filing fee paid for this application?

#### Background and Evidence

The written tenancy agreement submitted by the landlords show that this tenancy began on October 1, 2012. The documents submitted by the landlord shows that current monthly rent is \$322.00, pursuant to rent increases by the landlord.

The landlord submitted that they served the tenant with the Notice on April 6, 2015, by attaching the document to the tenant's door. The Notice listed unpaid rent of \$875.50 that was due by April 1, 2015 and an effective move-out date of April 16, 2015.

Section 83 of the Act states that documents served by attaching to the door are deemed delivered 3 days later. Thus the tenant was deemed to have received the Notice on April 9, 2015, and the effective move out date is automatically changed to April 19, 2015, pursuant to section 46 of the Act.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within 5 days of receipt of the Notice. The Notice also explained that alternatively the tenant had 5 days to dispute the Notice by making an application for dispute resolution. In this case, the tenant did file an application, but the application was not made within the 5 days and not served on the landlord.

The landlords asserted that since the issuance of the Notice, the tenant paid \$460.00 on May 5, 2015 and \$322.00 on June 1, 2015, leaving a total rent deficiency, with 3 late fees of \$25.00 each, through the date of the hearing in the amount of \$837.50. The landlord submitted that the tenant was provided receipts for the payments on a use and occupancy basis.

The landlords' monetary claim listed on their application was \$875.50.

### Analysis

I find the landlord submitted sufficient evidence to prove that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, did not pay the outstanding rent or file an application for dispute resolution in dispute of the Notice within 5 days of service and is therefore conclusively presumed under section 39(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice, in this case, April 19, 2015.

I therefore find that the landlord is entitled to an order of possession for the manufactured home site effective 2 days after service of the order upon the tenants.

I grant the landlord a final, legally binding order of possession for the manufactured home site, which is enclosed with the landlord's Decision. Should the tenants fail to vacate the manufactured home site pursuant to the terms of the order after being served, the order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

As to the landlord's monetary claim, I find the landlord submitted sufficient evidence to show that the tenant owed outstanding rent of \$875.50 on April 6, 2015, the day of the Notice, and they are entitled to that amount. Since that time, the tenant has continued to stay on the manufactured home site beyond the effective end of tenancy, or April 19, 2015 and I therefore find the landlord is entitled to a loss of rent revenue for May 2015, in the amount of \$322.00.

I do not allow the landlord's claim for a late fee of \$25.00 for May or June 2015, as the tenancy ended on the effective date of the Notice, or April 19, 2015, ending that requirement under the written tenancy agreement for the tenant.

I allow the landlord recovery of the filing fee of \$50.00 paid for this application, pursuant to section 65 of the Act.

Due to the above, I find the landlord is entitled to a total monetary award of \$787.50, comprised of the outstanding rent through April 1, 2015 listed on the Notice of \$875.50, loss of rent revenue of \$322.00 for May 2015, and the filing fee of \$50.00, less the tenant's payment of \$460.00 on May 5, 2015. I grant the landlords a final, legally

binding monetary order pursuant to section 60 of the Act for the amount of \$787.50, which is enclosed with the landlords' Decision.

I have not addressed loss of rent revenue for June 2015 as the tenant paid \$322.00 on June 1, 2015, on a use and occupancy only basis and the landlord's application did not make a claim for that amount.

Should the tenant fail to pay the landlords this amount without delay after the order has been served upon them, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

### Conclusion

The landlords' application for an order of possession and a monetary order for unpaid rent has been granted.

The tenant's application is dismissed, without leave to reapply, as they failed to attend the hearing and as I have granted the landlords' application.

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: June 2, 2015

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Residential Tenancy Branch

