



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 460445 B C LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, FF

### Introduction

This hearing was convened by way of conference call in response to a Landlords' Application for Dispute Resolution (the "Application") for an Order of Possession and a Monetary Order for unpaid rent. The Landlords also applied for money owed or compensation for damage or loss under the *Manufactured Home Park Tenancy Act* (the "Act") and to recover the filing fee from the Tenant.

The Landlord named on the Application appeared for the hearing along with an agent for the company named on the Application and the park manager. There was no appearance by the Tenant for the 14 minute duration of the hearing and no submission of written evidence prior to this hearing. As a result, I turned my mind to the service of the documents for this hearing by the Landlords.

The Landlords' agent testified that the Landlord's Application and the Notice of Hearing documents were served to the Tenant by registered mail. The Landlords provided a copy of the Canada Post tracking number into written evidence prior to the hearing.

Section 83(a) of the Act provides that a document is deemed to have been received five days after it is mailed. A party cannot avoid service through a failure or neglect to pick up mail. As a result, based on the undisputed evidence of the Landlords, I find that the Tenant was deemed served with the required documents pursuant to the Act. The hearing continued to hear the undisputed evidence of the parties for the Landlord. All testimony was taken under affirmation.

The Landlord testified that since the time of making the Application, the Tenant has also failed to pay rent for July 2015. Therefore, the Landlord requested to include unpaid rent for July 2015 as part of his monetary claim. As a result, I amended the Landlords' Application to reflect the amount being claimed pursuant to my authority under Section 57(3) (c) of the Act.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and a Monetary Order?

Background and Evidence

The Landlord testified that to his knowledge this tenancy started in June 2009. Rent for this tenancy is currently payable in the amount of \$344.00 on the first day of each month. The Landlord referred to the Tenant's ledger and the park manager testified that the Tenant did not pay any rent for March, April and May 2015 for a total amount of \$1,032.00. On May 12, 2015 the park manager served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") by posting it to the Tenant's door. The Notice was provided into written evidence and shows an expected date of vacancy of May 25, 2015.

The Landlord's agent testified that the Tenant paid no rent for June 2015, leaving an outstanding balance of \$1,376.00. However, the Tenant did pay \$350.00 towards the rental arrears on June 20, 2015. The Landlords provided the Tenant with a receipt which was issued for "Temporary Occupancy". A copy of this receipt was provided into evidence for the hearing. The Landlord's agent testified that the Tenant then failed to pay any rent for July 2015. The total amount of rent the Landlords now seek to recover from the Tenant is \$1,370.00.

Analysis

Section 20(1) of the Act requires a tenant to pay rent when it is due under a tenancy agreement whether or not the landlord complies with the Act. Sections 39(4) and (5) of the Act provides that within five days of a tenant receiving a Notice, the tenant must pay the overdue rent or make an Application to cancel the Notice; if the tenant fails to do either, then they are conclusively presumed to have accepted the end of the tenancy and they must vacate the rental site on the date to which the Notice relates.

Having examined the Notice, I find that the contents on the approved form complied with Section 45 of the Act. I accept the park manager's undisputed oral evidence that the Notice was served to the Tenant by attaching it to the Tenant's door. Section 83(c) of the Act provides that a document served by attaching it to the door is deemed to have been received three days later. As the Notice was posted on May 12, 2015, I find that the Notice is deemed to have been received by the Tenant on May 15, 2015. As a result, I further find that the effective vacancy date on the Notice is automatically corrected from May 25, 2015 to May 28, 2015 pursuant to Section 46 of the Act.

As there is no evidence before me that the Tenant paid the outstanding rent or disputed the Notice, pursuant to Section 39(5) of the Act, I find that the Tenant is conclusively presumed to have accepted the tenancy ended on the corrected vacancy date of the Notice. As the effective vacancy date of the Notice has now passed, the Landlord is entitled to a two day Order of Possession. This order may then be filed and enforced in the Supreme Court as an order of that court if the Tenant fails to vacate the rental site.

I find the Landlord is also awarded unpaid rent in the amount of \$1,370.00. As the Landlord has been successful in this matter, the Landlord is also entitled to the \$50.00 filing fee for the cost of this Application pursuant to Section 65(1) of the Act. Therefore, the Landlord is issued with a Monetary Order for a total amount of **\$1,420.00**. This order must be served on the Tenant and may then be filed in the Provincial Court (Small Claims) and enforced as an order of that court if payment is not made. Copies of the above orders are attached to the Landlord's copy of this Decision.

### Conclusion

The Tenant has failed to pay rent under this tenancy. Therefore, the Landlord is granted an Order of Possession for the rental site effective **two days after service on the Tenant**. The Landlord is also granted a Monetary Order in the amount of \$1,420.00 for unpaid rent and recovery of the filing fee.

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: July 27, 2015

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Residential Tenancy Branch

