



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding GREEN ACRES 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 cost of the filing fee.

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 his 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”), Application for Dispute Resolution (the “Application”) and documentary evidence were considered. The agent testified that the tenant was served with a registered mail package that included the Notice of Hearing, Application and documentary evidence on August 21, 2015, which was addressed to the tenant at the rental site address, and that the tenant continues to occupy the rental site. 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 August 26, 2015.

### Preliminary and Procedural Matter

The landlord testified that in addition to a portion of site rent owed for May, and for full site rent owing for July and August, 2015, the tenant has also failed to pay site rent for the month of September 2015. The agent requested to amend the application to include site rent owing for September 2015. The agent stated that the tenant continues to

occupy the rental site. I find that this request to amend the application does not prejudice the respondent tenant as the tenant would be aware or ought to be aware that site rent is due pursuant to the tenancy agreement. Therefore, I permit the agent to amend the landlord's application pursuant to section 57(3) of the *Act* to \$1,007, comprised of \$20 owing for May 2015 site rent, and \$329 site rent for the months of July, August and September 2015 inclusive.

### 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?
- Is the landlord entitled to the recovery of the cost of the filing fee under the *Act*?

### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on July 12, 2013. Monthly site rent was originally \$322 per month and due on the first day of each month, and was increased to the currently monthly amount of \$329 site rent by way of a rent increase under the *Act*.

The landlord submitted a copy of the 10 Day Notice for Unpaid Rent or Utilities, (the "10 Day Notice") dated July 23, 2015. The agent stated that the 10 Day Notice was served personally on the tenant on July 23, 2015 at 5:00 p.m. and was witnessed by his adult daughter, T.L. The agent stated that the tenant did not dispute the 10 Day Notice or pay the amount of site rent owing which was listed as \$803 owing as of July 4, 2015.

The 10 Day Notice had an effective vacancy date of August 5, 2015. The agent requested an order of possession during the hearing.

The landlord's monetary claim is for \$1,007 and is comprised of the following:

Item 1. Unpaid portion of May 2015 site rent	\$20
Item 2. Unpaid site rent for July 2015	\$329
Item 3. Unpaid site rent for August 2015	\$329
Item 4. Unpaid site rent for September 2015	\$329
<b>TOTAL</b>	<b>\$1,007</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 accept the landlord's undisputed testimony and find that the tenant failed to pay the site rent as claimed 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 effective vacancy date of the 10 Day Notice which in the matter before me was August 5, 2015. Therefore, I find the tenancy agreement ended on August 5, 2015 and that that the tenant has been overholding on the site since that date. Accordingly, and pursuant to section 48 of the *Act*, I grant the landlord an order of possession **effective two (2) days after service on the tenant**.

**Claim for unpaid site rent** – The agent testified that a total of \$1,007 in unpaid site rent was owed as of the date of the hearing. 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 site until after service of the order of possession. I find the landlord has met the burden of proof for unpaid rent for as claimed for a total of \$1,007.

As the landlord has succeeded with their application, I grant the landlord the recovery of the **\$50** filing fee.

**Monetary Order** – I **grant** the landlord a monetary order pursuant to section 60 of the *Act* in the amount of **\$1,057** comprised of \$1,007 in unpaid site rent, plus recovery of the \$50 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's application is successful.

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 \$1,057. 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: October 1, 2015

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Residential Tenancy Branch

