



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Beaver Falls Mobile Home Park  
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes      OPC, FF

### Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for an Order of Possession for cause and to recover the filing fee from the tenant for the cost of the application.

An agent for the landlord and the tenant attended the hearing and each gave affirmed testimony. The parties were given the opportunity to question each other, and no issues with respect to service or delivery of documents or evidence were raised.

### Issue(s) to be Decided

Is the landlord entitled under the *Manufactured Home Park Tenancy Act* to an Order of Possession for cause?

### Background and Evidence

**The landlord's agent** testified that he purchased the manufactured home park in May, 2014 and the tenant was residing in a manufactured home within the park at that time. Rent in the amount of \$253.86 per month is payable on the 1<sup>st</sup> day of each month and there are no rental arrears. The tenant is the owner of the manufactured home. A written tenancy agreement exists but a copy has not been provided for this hearing.

The landlord's agent further testified that on January 29, 2016 he posted to the door of the tenant's manufactured home a 1 Month Notice to End Tenancy for Cause, a copy of which has been provided. He also sent a copy to the tenant by registered mail the same day but the tenant didn't pick it up from the post office and it was returned to the landlord. The notice is dated January 29, 2016 and contains an effective date of vacancy of February 29, 2016. The form on page 2 contains numerous reasons for issuing it.

The landlord has not been served with an application for dispute resolution by the tenant disputing the notice, and the landlord seeks an Order of Possession and recovery of the \$100.00 filing fee.

**The tenant** testified that he has lived in the park for 22 years.

The tenant had to be in another community for a month and 10 days, and upon returning around the first part of March, 2016 the tenant found the 1 Month Notice to End Tenancy for Cause. The tenant immediately started to do work on the manufactured home and in the yard, but did not talk to the landlord about it and did not call the Residential Tenancy Branch.

The manufactured home is a double-wide and cannot be moved.

### Analysis

The *Manufactured Home Park Tenancy Act* states that once a tenant is served, or deemed served with a 1 Month Notice to End Tenancy for Cause, the tenant has 10 days to dispute the notice. If the tenant fails to do so, the tenant is conclusively presumed to have accepted the end of the tenancy. In this case, the landlord testified that the notice was served by posting it to the door of the tenant's manufactured home on January 29, 2016 which is deemed to have been served 3 days later, or February 1, 2016. The *Act* requires a landlord to serve such a notice the day before rent is payable under the tenancy agreement, and the notice takes effect on the day before rent is payable for the following month. Since rent is payable on the 1<sup>st</sup> day of each month, I find that the effective date of vacancy is changed to March 31, 2016. However, the tenant did not dispute the notice and has not vacated the manufactured home park, and therefore I find that the tenant is conclusively presumed to have accepted the end of the tenancy and the landlord is entitled under the *Act* to an Order of Possession. Since the effective date of vacancy has passed, I grant the order on 2 days notice.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$100.00 filing fee. I hereby grant a monetary order in favour of the landlord in that amount.

### Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 60 of the *Manufactured Home Park Tenancy Act* in the amount of \$100.00.

These orders are final and binding and may be enforced.

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: April 20, 2016

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Residential Tenancy Branch