



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 48(4) of the *Manufactured Home Park Tenancy Act* (the *Act*), and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on unpaid utilities and a monetary Order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on July 15, 2016, the landlord sent the tenant the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Based on the written submissions of the landlord and in accordance with sections 82 and 83 of the *Act*, I find that the tenant has been deemed served with the Direct Request Proceeding documents on July 20, 2016, the fifth day after their registered mailing.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid utilities pursuant to sections 39 and 48 of the *Act*?

Is the landlord entitled to monetary compensation for unpaid utilities pursuant to section 60 of the *Act*?

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Request Proceeding served to the tenants;

- A copy of a manufactured home park tenancy agreement which was signed by the landlord and the tenant on March 21, 2002, indicating a monthly rent of \$242.00, due on the first day of the month for a tenancy commencing on March 21, 2002. The tenancy agreement also states that “The tenant shall pay utility charges for all utilities supplied to the Pad, whether by the landlord or directly by the utility company”;
- A copy of a decision from the Residential Tenancy Branch(RTB), dated April 21, 2016, regarding a dispute between the landlord and the tenant concerning the payment of utilities;
- Four copies of utility bills from the City of Kelowna and four copies of demand letters from the landlord, for the rental unit, dated October 15, 2015 for \$130.35, July 15, 2015 for \$133.65, April 20, 2015 for \$126.85 and January 20, 2015 for \$111.20 totaling \$502.05;
- A Monetary Order Worksheet showing the utilities owing and paid during this tenancy; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated June 13, 2016, and posted to the tenant's door on June 13, 2016, with a stated effective vacancy date of June 30, 2016, for \$502.05 in unpaid utilities.

Witnessed documentary evidence filed by the landlord indicates that the 10 Day Notice was posted to the tenant's door at 3:00 p.m. on June 13, 2016. The 10 Day Notice states that the tenant had five days from the date of service to pay the utilities in full or apply for Dispute Resolution or the tenancy would end.

### Analysis

I have reviewed all documentary evidence and in accordance with sections 81 and 83 of the *Act*, I find that the tenant was deemed served with the 10 Day Notice on June 16, 2016, three days after its posting.

Section 46 (6) of the *Act* allows the landlord to treat the unpaid utilities as unpaid rent, 30 days after the tenant is given a written demand for them.

I find that the tenant was obligated to pay the utilities, as per the tenancy agreement, the demand letters and the RTB decision dated April 21, 2016.

I accept the evidence before me that the tenant has failed to pay the utilities owed in full within the 5 days granted under section 39(4) of the *Act* and did not dispute the 10 Day Notice within that 5 day period

Based on the foregoing, I find that the tenant is conclusively presumed under section 39(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 10 Day Notice, June 30, 2016.

Therefore, I find that the landlord is entitled to an Order of Possession and a monetary Order in the amount of \$502.05, the amount claimed by the landlord, for unpaid utilities owed for January 2015, April 2015, July 2015 and October 2015, as of July 15, 2016.

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 60 of the *Act*, I find that the landlord is entitled to a monetary Order in the amount of \$502.05 for utilities owed for January 2015, April 2015, July 2015 and October 2015. The landlord is provided with this Order in the above terms and the tenant must be served with **this Order** as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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, 2016

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Residential Tenancy Branch