



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Renco Enterprises Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes:

OPC, FF

### Introduction

The landlord has applied requesting an order of possession based on a one month Notice to end tenancy for cause that was issued on August 31, 2016 and to recover the filing fee cost from the tenant.

The landlord provided affirmed testimony that on September 26, 2016 copies of the Application for Dispute Resolution and Notice of Hearing were posted to the door of the manufactured home. Service occurred at approximately 11:00 a.m. The landlord posted the documents, with a staff member present as a witness.

These documents are deemed to have been served on the third day after posting, in accordance with section 81 and 83 of the Act; however the tenant did not appear at the hearing.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession for the site, based on an undisputed one month Notice to end tenancy for cause issued on August 31, 2016?

### Background and Evidence

The landlord provided a copy of a one month Notice ending tenancy for cause issued on August 31, 2016. The Notice included multiple reasons for ending the tenancy.

The Notice was personally given to the tenant on August 31, 2016; the date the Notice was issued. The landlord submitted a proof of service of document form, signed by the landlord and a witness, works for the landlord. Service occurred at the rental site at 9:00 a.m. A RCMP officer was present.

I note that the landlords' co-worker signed the proof of service but wrote "RCMP officer" as the name of the person serving. The landlord confirmed the officer did not sign the proof of service; the co-worker signed.

The Notice had an effective date of September 30, 2016.

The landlord believes the tenant has abandoned his manufactured home; but he is not certain. The home remains on the site.

### Analysis

The landlord has issued a one month Notice to end tenancy for cause, pursuant to section 40 of the Act.

Section 40(4) of the Act provides a tenant with the opportunity to dispute the Notice within 10 days of receipt.

I find that the tenant received the Notice on August 31, 2016; the date it was personally given to the tenant.

As the Notice was received on August 31, 2016 I find that the effective date of the Notice is correct; September 30, 2016.

Section 40(5) of the Act provides:

*(5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant*

*(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and*

*(b) must vacate the manufactured home site by that date.*

There was no evidence before me that the tenant applied to dispute the Notice. Therefore, I find pursuant to section 40(5) of the Act that the tenant is conclusively presumed to have accepted the tenancy ended on September 30, 2016. The tenant continues to over-hold as the manufactured home remains on the site.

Therefore, pursuant to section 48(2) of the Act, I find that the landlord is entitled to an order of possession for the site. The landlord has been granted an order of possession that is effective two days after service to the tenant. This order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an order of that Court.

As the application has merit I find pursuant to section 65 of the Act that the landlord is entitled to recover the \$100.00 filing fee cost from the tenant.

### Conclusion

The landlord is entitled to an order of possession for the site.

The landlord is entitled to filing fee costs.

This decision is final and binding and is made on authority delegated to me by the Director of the *Manufactured Home Park Tenancy Act*, SBC 2002, c. 77, as amended.

Dated: November 07, 2016

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Residential Tenancy Branch