



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Sherwood MHP Inc.  
and [tenant name suppressed to protect privacy]

## **DECISION**

### **Dispute Codes**

Tenant's Application made September 19, 2016: MT; CNR  
Landlord's Application made October 6, 2016: OPR; MNR; FF

### **Introduction**

This Hearing was scheduled to consider cross-applications. The Tenant seeks more time to file her application to cancel a notice to end tenancy; and to cancel the Notice to End Tenancy for Unpaid Rent issued September 2, 2016 (the "Notice").

The Landlord seeks an order of possession; a monetary award; and to recover the cost of the filing fee from the Tenant.

Both parties signed into the Hearing and gave affirmed testimony.

The Tenant served the Landlord with her Notice of Hearing documents by leaving a copy of documents with the Landlord at its place of business on September 21, 2016.

The Landlord served the Tenant with its Notice of Hearing documents by mailing the documents to the Tenant at the rental site, by registered mail, on October 7, 2016. The Landlord's agent stated that the documents were returned to the Landlord, unclaimed. A copy of the Canada Post tracking information was provided, which indicates that an attempted delivery was made on October 12, 2016, and a notice card left indicating where the registered documents could be picked up. I find that the Landlord duly served the Tenant with its Notice of Hearing documents, pursuant to the provisions of Section 82(1)(d) of the Act.

### **Preliminary Matter: The Tenant's application for an extension of time**

The Landlord mailed the Tenant the Notice by registered mail on September 2, 2016. The Tenant received the Notice on September 6, 2016.

The Notice has an effective date of September 17, 2016. It is for \$1,639.89 in unpaid rent that was due on September 1, 2016.

Section 59 of the Act provides:

**Director's orders: changing time limits**

**59** (1) The director may extend a time limit established by this Act only in exceptional circumstances, other than as provided by section 52 (3) [*starting proceedings*] or 74 (4) [*decision on application for review*].

(2) Despite subsection (1), the director may extend the time limit established by section 39 (4) (a) [*landlord's notice: non-payment of rent*] for a tenant to pay overdue rent only in one of the following circumstances:

(a) the extension is agreed to by the landlord;

(b) the tenant has deducted the unpaid amount because the tenant believed that the deduction was allowed for emergency repairs or under an order of the director.

(3) The director must not extend the time limit to make an application for dispute resolution to dispute a notice to end a tenancy beyond the effective date of the notice.

[reproduced as written]

In this case, the Tenant made her Application 2 days after the effective date of the Notice and therefore, pursuant to the provisions of 59(3) of the Act, I dismiss her application for an extension of time.

The Hearing continued with respect to the Landlord's Application for Dispute Resolution.

**Issue(s) to be Decided**

- Is the Landlord entitled to an order of possession?
- Is the Landlord entitled to a monetary award?

**Background and Evidence**

The Landlord's agent stated that the Landlord accepted partial payment from the Tenant, "for use and occupancy only". A copy of the letter confirming that the Landlord was not reinstating the tenancy was provided in evidence.

The Landlord's agent testified that the Tenant still owes the Landlord \$1,668.03, calculated as follows:

Balance owed on September 30, 2016	
pursuant to Tenant ledger provided in evidence	\$669.19

October, 2016, use and occupancy	\$499.42
November, 2016, use and occupancy	<u>\$499.42</u>
TOTAL	\$1,668.03

The Tenant stated that she has concerns about dangerous trees that surround her home, and that she notified the Landlord to have them removed before they damage her property. The Tenant stated that she does not have an order from the Director allowing her to deduct rent and that she has not made emergency repairs for which she is claiming.

### Analysis

Based on the evidence provided, I find that the tenancy ended pursuant to the provisions of Section 39(5) of the Act on September 17, 2016. I find that the Tenant is overholding and that the Landlord is entitled to an Order of Possession.

I find that the Landlord is entitled to a monetary award, as requested. The Landlord has been successful in its Application and I find that the Landlord is entitled to recover the cost of the \$100.00 filing fee from the Tenant. Therefore, the Landlord is hereby provided with a Monetary Order in the total amount of \$1,768.03.

### Conclusion

The Landlord is hereby provided with an Order of Possession **effective 2 days after service of the Order upon the Tenant**. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlord is hereby provided with a Monetary Order in the amount of **\$1,768.03**, for service upon the Tenant. This Order may be filed in the Provincial Court of British Columbia (Small Claims 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: November 08, 2016

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Residential Tenancy Branch