



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Manufactured Home Park Tenancy Act* (the Act) for:

- an order of possession for unpaid rent pursuant to section 48;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 60;
- authorization to recover his filing fee for this application from the tenant pursuant to section 65.

The landlord provided affirmed testimony that the tenant was served with the notice of hearing package and the submitted documentary evidence on September 22, 2016 by posting it to the rental unit door. The tenant confirmed receipt of the notice of hearing package and the submitted documentary evidence in this manner on that date. The tenant commented that she was missing the first page, but that a complete copy of the notice of a dispute resolution hearing letter and a copy of the landlord's application for dispute was received. The tenant did not submit any documentary evidence. I accept the undisputed affirmed evidence of both parties and find that the landlord has sufficiently served the tenant with the notice of hearing package and the submitted documentary evidence as per section 90 of the Act.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order for unpaid rent, for money owed or compensation for damage or loss and recovery of the filing fee?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Both parties confirmed that this tenancy began on September 15, 2014 on a month-to-month basis as shown by the submitted copy of the signed tenancy agreement dated August 29, 2014. The monthly rent was \$491.22 payable on the 1<sup>st</sup> day of each month.

The landlord seeks a monetary claim of \$1,614.70 which consists of:

\$503.50	Unpaid Rent July 2016
\$25.00	NSF Fee July 2016 Rent Cheque
\$518.10	Unpaid Rent August 2016
\$25.00	NSF Fee August 2016 Rent Cheque
\$518.10	Unpaid Rent September 2016
\$25.00	NSF Fee September 2016 Rent Cheque

The landlord provided affirmed testimony that the tenant has also failed to pay rent for October 2016 and November 2016 of \$518.10 for each month. The landlord also stated that according to the park rules (provided in documentary evidence) that the tenant is subject to a \$25.00 late rent fee and is seeking recovery of \$50.00 for October and November 2016. The landlord clarified that the total monetary claim should be \$2,700.90.

The landlord stated that the tenant was served with the 10 Day Notice for unpaid rent (the 10 Day Notice) dated July 30, 2016 by posting it to the rental unit door on July 30, 2016. The 10 Day Notice states that the tenant failed to pay rent of \$503.50 that was due on July 1, 2016.

The tenant stated directly that he was in rental arrears as claimed by the landlord and was not disputing any portion of the landlord's claim. The tenant confirmed receipt of the 10 Day Notice as claimed by the landlord stating that due to personal reasons he was unable to make the necessary rent payments. The tenant stated that he is now willing and able to seek assistance to pay his rental arrears and wishes to continue to reside at the rental site.

The landlord also noted that the tenant having received the 10 Day Notice has not filed an application to dispute it. The tenant confirmed that no application was made to dispute the 10 Day Notice.

### Analysis

I accept the undisputed affirmed evidence of both parties and find that the landlord has established a claim for an order of possession and a monetary order for unpaid rent.

Section 39 (1) of the Act states that a landlord may seek an order of possession if rent is unpaid any day after the day it is due by giving notice to end the tenancy effective on a date that is not earlier than 10 Days after the date the tenant receives the notice. In this case it is clear based upon the undisputed evidence of both parties that the landlord served the tenant with the 10 Day Notice on July 30, 2016 by posting it to the rental unit door. The 10 Day Notice stated that the tenant failed to pay rent of \$503.50 that was due on July 1, 2016.

The tenant failed to pay the amount owed within 5 days nor did he file an application for dispute resolution of the 10 Day Notice. As such, pursuant to section 39 (5), the tenant is conclusively presumed to have accepted that the tenancy ended on the effective end of tenancy date listed as August 12, 2016 on the notice and must leave the manufactured home site. The landlord is granted an order of possession.

Section 60 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party.

In this case, it is clear based upon the undisputed affirmed evidence of both parties that the tenant failed to pay \$2,700.90 of rent and money owed which consists of:

\$503.50	Unpaid Rent July 2016
\$25.00	NSF Fee July 2016 Rent Cheque
\$518.10	Unpaid Rent August 2016
\$25.00	NSF Fee August 2016 Rent Cheque
\$518.10	Unpaid Rent September 2016
\$25.00	NSF Fee September 2016 Rent Cheque
\$518.10	Unpaid Rent October 2016
\$25.00	Late Rent Fee
\$518.10	Unpaid Rent November 2016
\$25.00	Late Rent Fee

The tenant confirmed in his direct testimony that none of the rent was paid for July 2016 to November 2016. The tenant confirmed as per the park rules and the tenancy agreement that the tenant was subject to a late rent fee of \$25.00 and that 3 of his rent cheques had been returned as NSF. I find based upon the undisputed affirmed evidence of the tenant that the landlord has established a claim for unpaid rent and money owed as claimed totalling, \$2,700.90.

The landlord having been successful is also entitled to recovery of the \$100.00 filing fee.

### Conclusion

The landlord is granted an order of possession for unpaid rent.

The landlord is granted a monetary order for \$2,800.90.

The landlord is provided with these orders in the above terms and the tenant(s) must be served with these orders as soon as possible. Should the tenant(s) fail to comply with these orders, these orders may be filed in the Small Claims Division of the Provincial Court and enforced as orders of that Court.

The landlord is provided with a formal copy of an order of possession. 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.

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 09, 2016

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Residential Tenancy Branch