



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding JOMA ENTERPRISES  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes            OPC, MNR, FF

### Introduction

This hearing dealt with the landlords' application pursuant to the *Manufactured Home Park Tenancy Act* (the "Act") seeking:

- an Order of Possession for cause pursuant to section 48;
- a Monetary Order for unpaid rent and damages pursuant to section 60; and
- authorization to recover the filing fee of this application from the tenants pursuant to section 65.

The tenants did not attend this hearing, which lasted approximately 15 minutes. The personal landlord attended the hearing representing both himself and the corporate landlord (the "landlord") and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice"), dated February 7, 2017 was served personally on the tenants on that date. In accordance with section 88 of the *Act*, I find that the tenants were served with the landlords' 1 Month Notice on February 7, 2017.

The landlord testified that the landlords' application for dispute resolution dated February 26, 2017 was personally served on the tenants on that same date along with the landlords' evidentiary materials. I find that the tenants were served with the landlords' application package on February 26, 2017 in accordance with sections 88 and 89 of the *Act*.

At the At the outset of the hearing, the landlord made an application requesting to amend the monetary amount of the claim sought. The landlord testified that the tenants have made some payment against the rent arrear owing and the current arrear is \$1,671.00. Pursuant to section 64(3)(c) of the *Act* and Rule 4.2 of the Rules of Procedure I amend the landlords' Application to decrease the landlords' monetary claim from \$1,871.00 to \$1,671.00.

### Issue(s) to be Decided

Are the landlords entitled to an order of possession for cause?

Are the landlords entitled to a monetary award as claimed?

Are the landlords entitled to recover the cost of filing this application from the tenants?

### Background and Evidence

The landlord provided undisputed testimony regarding the following facts. This month-to-month tenancy began in September, 2015. The current monthly rent is \$482.00 payable on the first of each month. A late fee of \$25.00 is charged for late rent payments.

The landlord testified that the tenants have been habitually late in paying the monthly rent. The landlord testified that the tenants were issued written notice when rent payment is late. The landlord submitted notices issued to the tenants as evidence of their late payment. Notices were issued for January and February, 2017 and several months in 2016 including October.

The landlord testified that the amount of arrear for this tenancy including unpaid rent and late charges is \$1,671.00, as at the date of the hearing, March 24, 2017. The landlord testified that the tenants have made some rent payments over the course of the tenancy but there remains an arrear. The landlord testified that the rent arrears as at February 7, 2017 when the 1 Month Notice was issued was \$1,504.00. Since that time the tenants have failed to pay the March rent in the amount of \$482.00. The landlord said that the tenants have made partial payment of \$340.00 but there remains an arrear of \$1,671.00.

### Analysis

The landlord provided undisputed evidence at this hearing, as the tenants did not attend.

Section 40 of the *Act* provides that upon receipt of a notice to end tenancy for cause, the tenant may, within 10 days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. I find that the tenants have failed to file an application for dispute resolution within the 10 days of service granted under section 40(4) of the *Act*. Accordingly, I find that the tenants are conclusively presumed under section 40(5) of the *Act* to have accepted that the tenancy ends on the corrected effective date of the 1 Month Notice, March 31, 2017.

I find that the landlords' 1 Month Notice meets the form and content requirements of section 45 of the *Act* as it is in the approved form and clearly identifies the parties, the address of the rental unit, the effective date of the notice and the reasons for ending the tenancy. Therefore, I find that the landlord is entitled to an Order of Possession pursuant to section 48 of the *Act*.

I accept the landlords' undisputed evidence that the total amount of arrears for this tenancy is \$1,671.00. I issue a monetary award in the landlords' favour for unpaid rent and late fees of \$1,671.00 as at March 24, 2017, the date of the hearing, pursuant to section 60 of the *Act*.

As the landlords' application was successful, the landlords are also entitled to recovery of the \$100.00 filing fee for the cost of this application.

Conclusion

I grant an Order of Possession to the landlords effective **March 31, 2017 at 1:00pm**. Should the tenants or any occupant on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary order in the landlords' favour in the amount of \$1,771.00 which allows the landlords to recover unpaid rent, late fees and the filing fee for their application. The tenants must be served with this Order as soon as possible. Should the tenants 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: March 24, 2017

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Residential Tenancy Branch