



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes OPR MNR

#### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the *Act*") for an Order of Possession for unpaid rent, pursuant to section 55, and a monetary order for unpaid rent, pursuant to section 67.

While the landlord's agent, AK, attended the hearing by way of conference call, the tenant did not. The landlord's agent was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord's agent testified that the tenant was served with the landlord's application for dispute resolution hearing package on April 28, 2017 by way of registered mail. The landlord provided a Canada Post tracking number. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's application on May 3, 2017, five days after its registered mailing.

The landlord's agent testified that the tenant was served with the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated April 4, 2017 ("10 Day Notice"), on April 4, 2017, by way of posting to the notice on the door of the rental unit. In accordance with sections 88 and 90 of the *Act*, I find the tenant deemed served with the landlord's 10 Day Notice on April 7, 2017, three days after its posting.

Although the landlord's application was made under the *Manufactured Home Park Tenancy Act* ('*MHPTA*'), section 4 of the *MHPTA* states that the *MHPTA* does not apply to tenancy agreements "under which a manufactured home site and a manufactured home are both rented to the same tenant". Accordingly this application was considered under the *Residential Tenancy Act*.

#### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to section 55 of the *Act*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

#### Background and Evidence

The landlord's agent, AK, testified regarding the following facts. The tenant is on a month-to-month tenancy with monthly rent in the amount of \$866.50, payable on the first day of each month. The tenant continues to reside in the manufactured park home.

The landlord issued the 10 Day Notice to the tenant on April 4, 2017 as the tenant was repeatedly late in paying rent, and was in arrears of \$1,180.00 at the time the Notice was issued. The landlord's agent testified that the tenant has paid only a portion of the outstanding rent since the Notice was issued, and still owes a balance of \$576.00. The landlord is seeking an Order of Possession as well as monetary compensation for the unpaid rent.

**Analysis**

The landlord's agent, AK, provided undisputed evidence at this hearing, as the tenant did not attend. The tenant failed to pay the rent in full, within five days of being deemed to have received the 10 Day Notice. The tenant did not make an application pursuant to section 46(4) of the *Act* within five days of being deemed to have received the 10 Day Notice. In accordance with section 46(5) of the *Act*, the failure of the tenant to take either of the above actions within five days led to the end of this tenancy on April 17, 2017, the corrected effective date on the 10 Day Notice. In this case, this required the tenant and anyone on the premises to vacate the premises by April 17, 2017. As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession, pursuant to section 55 of the *Act*. I find that the landlord's 10 Day Notice complies with section 52 of the *Act*.

The landlord's agent provided undisputed evidence that the tenant failed to pay the outstanding rent in the amount of \$576.00. Therefore, I find that the landlord is entitled to \$576.00 in outstanding rent for this tenancy.

**Conclusion**

I grant an Order of Possession to the landlord effective **two (2) days after service on the tenants**. Should the tenant or anyone 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 \$576.00 Monetary Order in favour of the landlord, which allows the landlord to recover unpaid rent. 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 *Residential Tenancy Act*.

Dated: June 6, 2017

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Residential Tenancy Branch