



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MNR, MNDC, MNSD, 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 retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 65.

No representative from the estate of the tenant (the Respondent) attended this hearing, although I waited until 11:15 a.m. in order to enable a representative to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord's agent, L.K. (the landlord), attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that the Landlord's Application for Dispute Resolution (the Application) and evidentiary package was sent to the manufactured home site and to the deceased tenant's son M.P, who was acting on behalf of the Estate for the deceased tenant, by way of registered mail on September 01, 2017. The landlord provided the Canada Post Tracking Numbers and the address of M.P. to confirm these registered mailings. The Canada Post Tracking Number for the registered mailing sent to M.P. shows that the mailing was accepted and signed for. In accordance with sections 81, 82 and 83 of the *Act*, I find that the Respondent was deemed served with the Application and evidentiary package on September 06, 2017, the fifth day after its registered mailing.

The landlord testified that a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities

(the 10 Day Notice) was sent by registered mail to the manufactured home site on April 17, 2017. In accordance with sections 81 and 83 of the *Act* I find that the 10 Day Notice, identifying \$1,551.00 in unpaid rent and \$636.50 in unpaid utilities owing for this tenancy, was deemed served to the manufactured home site on April 22, 2017.

#### Preliminary Matters

Section 17 (2) of the *Act* stipulates that a landlord must not require or accept a security deposit in respect of a manufactured home site tenancy. The landlord testified that no security deposit was collected for this tenancy. For this reason the landlord's Application to retain all or a portion of the security deposit is dismissed, without leave to reapply.

The landlord requested to amend their Application to account for the unpaid rent for September 2017. I allowed this amendment to the landlord's monetary application, as this was clearly rent that the Respondent would have known had become owing since the landlord submitted the application for dispute resolution. The landlord's amended application for a monetary award of \$3,092.50 is for the following items:

<b>Item</b>	<b>Amount</b>
Unpaid August 2016 Rent	\$103.00
Unpaid September 2016 Rent	181.00
Unpaid October 2016 Rent	181.00
Unpaid November 2016 Rent	181.00
Unpaid December 2016 Rent	181.00
Unpaid Utilities for 2016	636.50
Unpaid January 2017 Rent	181.00
Unpaid February 2017 Rent	181.00
Unpaid March 2017 Rent	181.00
Unpaid April 2017 Rent	181.00
Unpaid May 2017 Rent	181.00
Unpaid June 2017 Rent	181.00
Unpaid July 2017 Rent	181.00
Unpaid August 2017 Rent	181.00
Unpaid September 2017 Rent	181.00
<b>Amended Requested Monetary Order</b>	<b>\$3,092.50</b>

#### Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to a monetary award for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Is the landlord entitled to recover the filing fee for this application from the Respondent?

### Background and Evidence

The landlord gave written evidence that this tenancy began on July 01, 2015, with a monthly rent of \$181.00, due on the first day of each month. The tenancy agreement also stipulates that the tenant is responsible for annual utility charges for water and sewage disposal.

A tenant ledger showing the rent owing and paid during this tenancy was included in the landlord's evidence.

A copy of the signed 10 Day Notice, dated April 17, 2017, with an effective date of May 02, 2017, was also included in the landlord's evidence.

The landlord testified that the tenant was living in this unit and was renting another unit out to another party. The landlord testified that the tenant passed away and that the deceased tenant's son, M.P., was managing the estate. The landlord testified that the estate was renting out the unit on the manufactured home site to another tenant for a short period of time after the tenant's death. The landlord testified that it appears the manufactured home site has been abandoned for a few months but the landlord has not entered the manufactured home on the site to confirm this. The landlord testified that M.P. stopped making payments towards the tenancy on behalf of the estate and stopped responding to the landlord's calls and e-mails.

### Analysis

Section 20 of the *Act* requires a tenant to pay rent to the landlord, regardless of whether the landlord complies with the *Act*, regulations or tenancy agreement, unless the tenant has a right to deduct all or a portion of rent under the *Act*.

Based on the landlord's evidence and undisputed sworn testimony, I find the Respondent failed to pay any rent within five days of receiving the 10 Day Notice and did not make an application pursuant to section 39(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 39(5) of the *Act*, the failure of the Respondent to take either of these actions within five days led to the end of this tenancy on June 27, 2017, the effective date on the 10 Day Notice. In this case, any occupants or anyone on the premises were required to vacate the premises by May 02,

2017. As the landlord does not have possession of the manufactured home site at this time, I find that the landlord is entitled to a two (2) day 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. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, the regulations or the tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply.

Based on the landlord's written evidence and undisputed sworn testimony, I find that the landlord is entitled to a monetary award of \$2,456.00 for unpaid rent owing for this tenancy for the period from August 2016 to September 2017 and \$636.50 in unpaid utilities owing for this tenancy for the year of 2016.

As the landlord has been successful in this application, I allow them to recover the filing fee from the Respondent.

#### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the Respondent. Should any occupant 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.

Pursuant to section 60 of the *Act*, I grant a monetary Order in the landlord's favour under the following terms, which allows the landlord to recover unpaid rent, to recover unpaid utilities and to recover the filing fee from the Respondent:

Item	Amount
Unpaid August 2016 Rent	\$103.00
Unpaid September 2016 Rent	181.00
Unpaid October 2016 Rent	181.00
Unpaid November 2016 Rent	181.00
Unpaid December 2016 Rent	181.00

Unpaid Utilities for 2016	636.50
Unpaid January 2017 Rent	181.00
Unpaid February 2017 Rent	181.00
Unpaid March 2017 Rent	181.00
Unpaid April 2017 Rent	181.00
Unpaid May 2017 Rent	181.00
Unpaid June 2017 Rent	181.00
Unpaid July 2017 Rent	181.00
Unpaid August 2017 Rent	181.00
Unpaid September 2017 Rent	181.00
Filing fee for this application	100.00
<b>Total Monetary Order</b>	<b>\$3,192.50</b>

The landlord is provided with this Order in the above terms and the Respondent must be served with this Order as soon as possible. Should the Respondent fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: October 02, 2017

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Residential Tenancy Branch