



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Whispering Spruce Campground & RV Park  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR MNR

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held, via teleconference, on November 23, 2017. The Landlord applied for the following relief, pursuant to the *Manufactured Home Park Tenancy Act* (the "Act"):

- an order of possession for unpaid rent or utilities; and,
- a monetary order for unpaid rent or utilities.

The Landlord's Agent, the "Agent", provided affirmed testimony at the hearing. The Tenants did not attend the hearing.

The Agent testified that she sent a copy of the Notice of Hearing along with supporting documentary evidence to each of the Tenants on September 21, 2017, by registered mail. I find the Tenants received this package on September 26, 2017, the fifth day after its registered mailing, pursuant to Section 90 of the *Act*.

The Agent has requested to amend her application to include rent that has accrued since the original application date. I turn to the following Rules of Procedure (4.2):

### **Amending an application at the hearing**

In circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing.

In consideration of this, I allow the Agent to amend their application to include rent that has accrued since the original application date.

The Agent was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

1. Is the Landlord entitled to an order of possession for unpaid rent or utilities?
2. Is the Landlord entitled to a monetary order for unpaid rent or utilities?

### Background and Evidence

The Agent testified that rent, in the amount of \$251.37, is due on the first day of each month.

The Agent testified that she sent the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) to the Tenants by registered mail on August 11, 2017. The amount owing at that time was \$508.74. The Agent stated that this amount is comprised of \$6.00 in unpaid rent from June of 2017, as well as unpaid rent for July and August of 2017. Further, the Agent stated that the Tenants now owe rent for September, October, and November of 2017.

<b>Date</b>	<b>Item</b>	<b>Amount Due</b>	<b>Amount Paid</b>	<b>Accrued Balance Owing</b>
June 1, 2017	Unpaid Rent amount	\$6.00		\$6.00
July 1, 2017	Rent Due	\$251.37		\$257.37
August 1, 2017	Rent Due	\$251.37		\$508.74
September 1, 2017	Rent Due	\$251.37		\$760.11
October 1, 2017	Rent Due	\$251.37		\$1,011.48
November 1, 2017	Rent Due	\$251.37		\$1,262.85
<b>Total Accrued Balance</b>				<b>\$1,262.85</b>

### Analysis

Based on the unchallenged affirmed testimony and documentary evidence, and on a balance of probabilities, I find as follows:

Section 20 of the *Act* confirms that a tenant must pay rent when it is due unless the tenant has a right under the *Act* to deduct all or a portion of rent. When a tenant does not pay rent when due, section 39 of the *Act* permits a landlord to end the tenancy by issuing a notice to end tenancy. A tenant who receives a notice to end tenancy under this section has five days, under section 39(4) of the *Act*, after receipt to either pay rent in full or dispute the notice by filing an application for dispute resolution. When a tenant does not pay rent in full or dispute the notice, the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the notice, as per section 39(5) of the *Act*.

In this case, I find that the tenant owed \$508.74 in past due rent at the time the 10 Day Notice was issued on August 11, 2017. The Agent sent the 10 Day Notice to the Tenants by registered mail on August 11, 2017. I find the Tenants received the 10 Day Notice on August 16, 2017, 5 days after it was mailed, pursuant to section 90 of the *Act*.

The tenants had 5 days to pay rent in full or file an application for dispute resolution. I find no evidence that the Tenants did either. As such, I find the tenants are conclusively presumed to have accepted the end of the tenancy, on the effective date of the notice. The Landlord is entitled to an order of possession, which will be effective two (2) days after it is served on the tenants.

Next, I turn to the Agent's request for a Monetary Order for unpaid rent. After considering the evidence before me, as summarized in the chart above, I find there is sufficient evidence before me to demonstrate that the tenants owe and have failed to pay \$1,262.85 in past due rent.

### Conclusion

The landlord is granted an order of possession effective **two days after service** on the tenants. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

The landlord is granted a monetary order pursuant to Section 60 in the amount of \$1,262.85 comprised of rent owed. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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 23, 2017

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Residential Tenancy Branch