



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Green Acres Mobile Home Park  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes:

**OPR, MNRL, FF**

### Introduction

This hearing was scheduled in response to the landlord's application for dispute resolution, in which the landlord has requested an order of possession for unpaid rent, a monetary order for unpaid rent and to recover the filing fee from the tenant for the cost of this application for dispute resolution.

The agent for the landlord provided affirmed testimony that on December 11, 2017 copies of the application for dispute resolution and Notice of Hearing and evidence were sent to the tenant via registered mail to the address noted on the application. A Canada Post tracking number was provided as evidence of service. The landlord stated that the mail was accepted on December 15, 2017.

Therefore, I find that these documents were received on December 15, 2017 in accordance with section 83 of the Act.

The tenant did not appear at the hearing.

### Preliminary Matters

The landlord withdrew the monetary claim as all rent was paid on December 22, 2017. The landlord wished to proceed with the request for an order of possession.

### Issue(s) to be Decided

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

### Background and Evidence

The tenancy commenced on June 1, 2008. Rent is currently \$335.00 for the site.

The landlord stated that on October 4, 2017 a 10 day Notice ending tenancy for unpaid rent or utilities, which had an effective date of October 21, 2017 was served by registered mail sent to the tenant's address on October 4, 2017. The mail was accepted on October 5, 2017.

The Notice indicated that the Notice would be automatically cancelled if the landlord received \$335.00 within five days after the tenant was assumed to have received the Notice. The Notice also indicated that the tenant was presumed to have accepted that the tenancy was ending and that the tenant must move from the rental site by the date set out in the Notice unless the tenant filed an Application for Dispute Resolution within five days.

The tenant did not pay any rent until December 22, 2017 when all rent arrears was paid in full. The landlord issued a receipt for use and occupancy only. The payment was made by the tenant's sister.

### Analysis

Section 39 of the Act stipulates that a 10 day Notice ending tenancy is effective 10 days after the date that the tenant receives the Notice. As the tenant received the Notice on October 5, 2017, I find that the earliest effective date of the Notice is October 25, 2017.

Section 46 of the Act stipulates that if the effective date stated in a Notice is earlier than the earliest date permitted under the legislation, the effective date is deemed to be the earliest date that complies with the legislation. Therefore, I find that the effective date of this Notice to End Tenancy was October 25, 2017.

In the absence of evidence to the contrary, I find that the tenant was served with a Notice ending tenancy that required the tenant to vacate the rental site on October 25, 2017, pursuant to section 39 of the Act.

Section 39(4) of the Act stipulates that a tenant has five days from the date of receiving the Notice ending tenancy to either pay the outstanding rent or to file an application for dispute resolution to dispute the Notice. In the circumstances before me I have no evidence that the tenant exercised either of these rights. The tenant eventually paid all rent owed, but payment was not made within five days of October 5, 2017. The receipt issued by the landlord put the tenant on notice that the tenancy was not reinstated.

Therefore, pursuant to section 39(5) of the Act, I find that the tenant is conclusively presumed to have accepted that the tenancy has ended on the effective date of the Notice; October 25, 2017.

The landlord has been granted an order of possession for the site that is effective two days after service to the tenant. This order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an order of that Court.

As the landlords' claim has merit I find, pursuant to section 65 of the Act that the landlord is entitled to recover the \$100.00 filing fee from the tenant for the cost of this application for dispute resolution.

Based on these determinations I grant the landlord a monetary order in the sum of \$100.00. In the event that the tenant does not comply with this order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an order of that Court.

### Conclusion

The landlord is entitled to an order of possession.

The landlord is entitled to filing fee costs.

This decision is final and binding and 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: January 17, 2018

---

Residential Tenancy Branch