



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes            OPRM-DR FFL

### Introduction

This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 48(4) of the *Manufactured Home Park Tenancy Act* (the *Act*), and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on unpaid rent and a Monetary Order.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on January 26, 2018, the landlord sent the tenant the Notice of Direct Request Proceeding by registered mail to the rental unit. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing. Based on the written submission of the landlord and in accordance with sections 82 and 83 of the *Act*, I find that the tenant is deemed to have been served with the Direct Request Proceeding documents on January 31, 2018, the fifth day after their registered mailing.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to sections 39 and 48 of the *Act*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 60 of the *Act*?

Is the landlord entitled to recover the filing fee for this application pursuant to section 65 of the *Act*?

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and the tenant on June 01, 2015, indicating a monthly rent of \$317.00, due on the first day of each month for a tenancy commencing on June 01, 2015;

- Two copies of Notice of Rent Increase forms showing the rent being increased from \$325.00 to \$347.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent dated January 11, 2018 for \$1,222.00 in unpaid rent (the 10 Day Notice). The 10 Day Notice provides that the tenant had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end on the stated effective vacancy date of January 22, 2018;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was left in the tenant's mail box or mail slot at 6:00 p.m. on January 11, 2018;
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy; and
- A copy of a receipt dated January 22, 2018, for \$600 of rent, paid by the tenant, which the landlord has indicated is for "temporary occupancy only";

### Analysis

I have reviewed all documentary evidence and in accordance with sections 81 and 83 of the *Act*, I find that the tenant was deemed served with the 10 Day Notice on January 14,, 2018, three days after it was left in the tenant's mail box or mail slot.

I accept the evidence before me that the tenant has failed to pay the rent owed in full within the five days granted under section 39(4) of the *Act* and did not dispute the 10 Day Notice within that five day period.

Based on the foregoing, I find that the tenant is conclusively presumed under section 39(5) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, January 24, 2018. Therefore, I find that the landlord is entitled to an Order of Possession and a Monetary Order.

In relation to the Monetary Order, the landlord's Application for Dispute Resolution by Direct Request has requested a Monetary Order in the amount of \$1,222.00 which arises from unpaid rent from January 2017 to present. In this regard, although documentation was submitted to support the rent increases from \$325.00 to \$347.00, I note there was also a rent increase from \$317.00 to \$325.00 which lacks the necessary documentation, which is a requirement of the Direct Request Proceeding.

I further note that the only monetary award available to a landlord by way of the Direct Request Proceeding is for unpaid rent and unpaid utilities. As the landlord has also sought a monetary

award for matters relating to late charges and/or a non-sufficient funds fee, I would not be able to consider this aspect of the landlord's claim through the Direct Request Proceeding.

While I am satisfied that the tenant has not paid rent, the documentation in relation to the rent increase amount is insufficient to enable the issuance of a Monetary Order. As this is an ex parte proceeding that does not allow for any clarification of the facts, I dismiss the landlord's application for a Monetary Order for unpaid rent with leave to reapply.

As the landlord was partially successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I dismiss the landlord's claim for a Monetary Order for unpaid rent but provide the landlord leave to reapply for the outstanding rent through the conventional participatory hearing process.

Pursuant to section 65 of the *Act*, I grant the landlord a Monetary Order in the amount of \$100.00 for the recovery of the filing fee for this application. The landlord is provided with this Order in the above terms and the tenant(s) must be served with **this Order** as soon as possible. Should the tenant(s) 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 *Act*.

Dated: February 01, 2018

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Residential Tenancy Branch