



# Dispute Resolution Services

Page: 1

## Residential Tenancy Branch Office of Housing and Construction Standards

A matter regarding ILLIANCE RIVER DEVELOPMENT CORP  
and [tenant name suppressed to protect privacy]

### **DECISION**

Dispute Codes OPR MNR DR

#### Introduction

This participatory hearing was convened after the issuance of a January 18, 2018 Interim Decision of an Adjudicator. The Adjudicator determined that the landlord's application could not be considered by way of the Residential Tenancy Branch's direct request proceedings, as had been originally requested by the landlord. The Adjudicator reconvened the landlord's application for the following to a participatory hearing:

- an Order of Possession pursuant to section 55 of the *Act* for unpaid rent or utilities; and
- a Monetary Order pursuant to section 67 of the *Act* for unpaid rent.

Pursuant to section 58 of the *Residential Tenancy Act*. (the *Act*), I was designated to hear this matter.

The landlord's agent, H.S. attended the hearing, while the tenant did not. The landlord was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

On January 10, 2018, the tenant was sent a Notice of Hearing and evidentiary package by way of Canada Post Registered Mail. The landlord provided a copy of the Canada Post tracking number to the hearing. Pursuant to sections 88, 89 & 90 of the *Act*, the tenant is deemed served with this notice on January 15, 2018, five days after its posting.

#### Issue(s) to be Decided

Is the landlord entitled to a monetary award?

#### Background and Evidence

Undisputed testimony was provided to the hearing by the landlord that this tenancy began in August 2014. Pad rental is \$345.00 per month.

The landlord explained that a previous arbitrator with the *Residential Tenancy Branch* had issued him with a monetary award for unpaid rent and an Order of Possession. He said that following the issuance of this order, that no steps had been taken to remove the mobile home from the property and that the home remained on the property accumulating unpaid pad rent after the issuance of this order. It was for this reason that he sought a monetary award of \$3,795.00, representing the time period of May 1, 2017 to March 2018. The landlord is also seeking a return of the filing fee.

No evidence or testimony was supplied to the hearing by the tenant.

#### Analysis

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. In this case, the onus is on the landlord to prove their entitlement to a monetary award.

The landlord explained that following the issuance of an Order of Possession and a monetary award that the tenant's mobile home remains on the property. The landlord said that rent remains unpaid for the time period from May 1, 2017 to March 2018, totaling \$3,795.00.

I accept the landlord's undisputed testimony that rent remains unpaid for the time period listed above, and that the tenant was served with the landlord's application for dispute by way of Canada Post Registered Mail. As this amount remains outstanding at the time of the hearing, I allow the landlord to recover the entire amount sought in their application for a monetary award.

#### Conclusion

I grant the landlord a monetary order in the amount of \$3,895.00. This amount includes a return of the filing fee.

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: March 20, 2018

---

Residential Tenancy Branch