



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Birchwood Heights Mfg Home 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 March 12, 2018. 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 Tenant did not attend the hearing.

The Agent testified that he posted a copy of the Notice of Hearing along with supporting documentary evidence to the Tenant's door on February 23, 2018. I find the Tenant received this package on February 26, 2018, the third day after it was posted, pursuant to Section 83 of the *Act*.

During the hearing, the Agent stated he was going to withdraw his application for a monetary order and pursue this at a later date. I hereby amend the Landlord's application accordingly.

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?

### Background and Evidence

The Agent testified that rent, in the amount of \$360.00, is due on the first day of each month.

The Agent testified that he posted the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the Tenant's door on February 2, 2018. The amount owing at that time was \$375.00 (\$15.00 unpaid from January 2018, and \$360.00 unpaid from February 2018). The Agent stated that the Tenant has not paid anything since he issued the 10 Day Notice.

### 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 \$375.00 in past due rent at the time the 10 Day Notice was issued on February 2, 2018. The Agent posted the 10 Day Notice to the Tenant's door on February 2, 2018. I find the Tenant received the 10 Day Notice on February 5, 2018, 3 days after it was posted to the Tenant's front door, pursuant to section 83 of the *Act*.

The tenant had 5 days to pay rent in full or file an application for dispute resolution. I find no evidence that the Tenant did either. As such, I find the tenant is 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 tenant.

### 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.

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 13, 2018

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Residential Tenancy Branch