



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MNRL, FFL

### Introduction

This hearing dealt with the landlord's application pursuant to the *Manufactured Home Park Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to sections 39 and 48;
- a monetary order for unpaid rent pursuant to section 60; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 65.

The tenant did not attend this hearing, although I waited until 9:41 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m.

The landlord's agent (the landlord) attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

Rules 7.1 and 7.3 of the Rules of Procedure provides as follows:

**Commencement of the hearing** - The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

The landlord testified that the Application for Dispute Resolution (the Application) and evidentiary package was sent to the tenant by way of registered mail on July 25, 2018. The landlord provided a copy of the Canada Post Tracking Number to confirm this registered mailing. In accordance with sections 81, 82 and 83 of the *Act*, I find that the tenant was deemed served with the Application and evidentiary package on July 30, 2018, the fifth day after its registered mailing.

At the outset of the hearing the landlord sought to increase their monetary claim from \$1,529.00 to \$2,637.00 to reflect the tenant's failure to pay \$554.00 in monthly rent for

August 2018 and September 2018, the additional months of unpaid rent waiting for this hearing.

Residential Tenancy Rule of Procedure 4.2 states that 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. I allow the amendment as this was clearly rent that the tenant would have known about and resulted since the landlord submitted the Application.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord gave undisputed affirmed testimony that this tenancy began approximately two years ago when the tenant inherited the manufactured home from his father who started their tenancy at the manufactured home site on April 01, 2012. The landlord testified that the current monthly rent is \$554.00, due on the first day of each month.

A tenant ledger showing the rent owing and paid during the relevant portion of this tenancy was included in the landlord's evidence. The tenant ledger shows that \$421.00 is owed for May 2018, \$554.00 is owed for June 2018 and \$554.00 is owed for July 2018. In addition to rent owed the landlord is also claiming for fees for late payment of rent in the amount of \$25.00 for June 2018 and \$25.00 for July 2018.

The landlord entered into evidence a signed and witnessed Proof of Service Document attesting to the fact that a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) was posted to the tenant's door on July 02, 2018.

A copy of the signed 10 Day Notice dated July 02, 2018, identifying \$1,529.00 in rent owing for this tenancy with an effective date of July 12, 2018, was also included in the landlord's evidence.

The landlord testified that the tenant is still in the possession of the rental site and that they are seeking a Monetary Order for the unpaid rent and an Order of Possession.

### Analysis

I have reviewed the documentary evidence and in accordance with sections 81 and 83 of the *Act*, I find that the 10 Day Notice was deemed served to the tenant on July 05, 2018, three days after its posting.

Section 20 of the *Act* requires a tenant to pay rent to the landlord, regardless of whether the landlord complies with the *Act*, regulations or tenancy agreement, unless the tenant has a right to deduct all or a portion of rent under the *Act*.

Based on the landlord's undisputed testimony, I find the tenant failed to pay any rent within five days of receiving the 10 Day Notice and did not make an application pursuant to section 39(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 39(5) of the *Act*, the failure of the tenant to take either of these actions within five days led to the end of this tenancy on July 15, 2018, the corrected effective date on the 10 Day Notice.

In this case, the tenant and anyone on the premises were required to vacate the premises by July 15, 2018. As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession.

Section 7(d) of the *Residential Tenancy Regulations* allows for a \$25.00 administrative fee for late payment of rent.

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

Based on the landlord's written evidence and undisputed affirmed testimony, I find the landlord is entitled to a monetary award of \$2,687.00 for unpaid rent and late fees owing for this tenancy from May 2018 to September 2018.

As the landlord has been successful in this application, I allow them to recover the \$100.00 filing fee from the tenant.

Conclusion

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

Pursuant to section 60 of the *Act*, I grant a Monetary Order in the landlord's favour under the following terms, which allows the landlord to recover unpaid rent, late fees and to recover the filing fee from the tenant:

Item	Amount
Unpaid May 2018 Rent	\$421.00
Unpaid June 2018 Rent	554.00
Late Rent Fee – June 2018	25.00
Unpaid July 2018 Rent	554.00
Late Rent Fee – July 2018	25.00
Unpaid August 2018 Rent	554.00
Unpaid September 2018 Rent	554.00
Filing Fee for this Application	100.00
<b>Total Monetary Order</b>	<b>\$2,787.00</b>

The landlord is provided with this Order in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: September 06, 2018

---

Residential Tenancy Branch