



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      Landlord:      OPUM-DR  
Tenant:      CNR LRE MT

### Introduction

This hearing dealt with cross applications for dispute resolution filed by the parties under the *Manufactured Home Park Tenancy Act* (the “Act”). The landlord sought an order of possession for unpaid utilities and a monetary order for unpaid utilities, unpaid rent, and additional costs related to the tenancy, pursuant to sections 48 and 60 of the Act. The tenant sought an order cancelling a 10 Day Notice to End Tenancy for Unpaid Utilities (the “Notice”), an extension of time to dispute the Notice, and an order suspending or restricting the landlord’s right to enter the rental unit, pursuant to section 39, 59, and 63 of the Act, respectively.

The landlord attended the hearing before me and was given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses. The tenant did not attend the hearing.

While I have reviewed all oral and documentary evidence submitted, only relevant evidence pertaining to the issues of these applications are considered in my decision.

### Preliminary Issue: Previous Order of Possession Issued

In reviewing the parties’ applications, I note that an order of possession was issued on January 10, 2019, in relation to a separate application for dispute resolution filed by the tenant on November 9, 2018. The landlord explained that he had recently obtained a writ of possession from the Supreme Court of British Columbia and that court bailiff services were being retained. He further commented that the tenant no longer resides on the property.

Given the above, no order of possession will be issued in relation to either of the parties' applications as this issue is now moot.

### Issue

Is the landlord entitled to compensation for unpaid utilities, unpaid rent, and additional costs related to the ending of the tenancy?

### Background and Evidence

The landlord testified that the tenancy commenced on March 1, 2018, and ended on November 30, 2018, pursuant to a valid notice to end tenancy.

The landlord testified and submitted that the following amounts are being sought from the tenant:

Unpaid utilities	\$1,400.00
Unpaid rent for January 2019	400.00
Filing Fee for Supreme Court Writ of Possession	120.00
<u>Supreme Court Bailiff Costs (Deposit)</u>	<u>1,700.00</u>
TOTAL:	\$3,620.00

In support of the landlord's claim a copy of the Notice was submitted into evidence, a 30 Day Written Demand Letter, BC Hydro utility bills, and direct request worksheet.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Section 7 of the Act states that if a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results. Section 67 of the Act states that if damage or loss results from a party not complying with the Act, the regulations or a tenancy agreement, an arbitrator may determine the amount of, and order that party to pay, compensation to the other party.

When an applicant seeks compensation under the Act, the applicant must prove each of the following four criteria, on a balance of probabilities, in order for me to consider whether I grant an order for compensation:

1. has the respondent party to a tenancy agreement failed to comply with the Act, the regulations, or the tenancy agreement?
2. if yes, did loss or damage result from that non-compliance?
3. has the applicant proven the amount or value of their damage or loss?
4. has the applicant done whatever is reasonable to minimize their damage or loss?

In this case, the tenant failed to comply with the Act by not paying either the utilities or his rent for January 2019, though the tenant remained on the property until the end of January 2019. The landlord was required to file for dispute resolution in order to enforce the end of tenancy and was further required to apply for a writ of possession and retain court bailiff services in order to remove the tenant's property that has been left on the property.

Further, the compensatory losses and expenses borne by the landlord are as a result of the tenant's non-compliance and would not have occurred but for the tenant's breach of the Act and the tenancy agreement. The landlord has established the costs claimed by oral and documentary evidence. Finally, the losses and expenses claimed are reasonable, and therefore the landlord has done what is reasonable to minimize his losses.

Taking into consideration all the undisputed oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving his claim for compensation. Accordingly, I issue a monetary order for the amount claimed.

As previously noted, I do not issue an order of possession, as one was previously issued and is currently being enforced in the courts.

As the tenant failed to attend the hearing I dismiss his application in its entirety without leave to reapply.

Conclusion

The tenant's application is dismissed without leave to reapply.

I grant the landlord a monetary order in the amount of \$3,620.00, which must be served on the tenant. The order may be filed in, and enforced as an order of, the Provincial Court of British Columbia (Small Claims).

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 4, 2019

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Residential Tenancy Branch