



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ACCENT HOLDINGS LTD  
and [tenant name suppressed to protect privacy]

## **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 February 4, 2019, 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 submissions 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 February 9, 2019, 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 manufactured home park tenancy agreement which was signed by the landlord and the tenant on September 26, 2008, indicating a monthly rent of \$255.00, due on the first day of each month for a tenancy commencing on October 1, 2008;
- Two copies of Notice of Rent Increase forms, showing the rent being increased from \$289.00 to the monthly rent amount of \$306.00;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated December 15, 2018, for \$306.00 in unpaid rent. 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 December 15, 2018;
- A copy of a Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was sent to the tenant by registered mail at 5:56 (a.m. or p.m. not indicated) on December 5, 2018;
- A copy of a Canada Post Customer Receipt containing the Tracking Number to confirm the 10 Day Notice was sent to the tenant on December 5, 2018; and
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

### 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 December 10, 2018, five days after its registered mailing.

Section 61 of the *Act* allows for the 10 Day Notice to be amended when it is reasonable to do so. I find that the date of the 10 Day Notice is for a date that had not occurred at the time that the 10 Day Notice was issued to the tenant. For this reason, I have amended the date of the 10 Day Notice to reflect the day it was sent to the tenant by registered mail, December 5, 2018.

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 sections 39(5) and 46(2) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, December 20, 2018.

Therefore, I find that the landlord is entitled to an Order of Possession for unpaid rent owing for December 2018 as of January 28, 2019.

I note that the amount of rent on the tenancy agreement does not match the amount of rent being claimed on the 10 Day Notice. Although the landlord submitted a copy of two Notice of Rent Increase forms, I find the landlord has not provided any documentation to confirm the rent was correctly increased from the \$255.00 established in the tenancy agreement to the \$289.00 that appears in the first Notice of Rent Increase. When there have been rent increases, all appropriate Notice of Rent Increase forms must be submitted with the Application for Dispute Resolution to substantiate each stage of the claim for the increased rent.

I find that I am not able to confirm the precise amount of rent owing, and for this reason the landlord's application for a Monetary Order for unpaid rent is dismissed 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.

Pursuant to section 65 of the *Act*, I find that the landlord is entitled to 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 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 an Order of that Court.

I dismiss the landlord's application for a Monetary Order for unpaid rent with leave to reapply.

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: February 11, 2019

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Residential Tenancy Branch