



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding W.V Income Properties LTD. and  
[tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** FFL OPRM-DR

### **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 and utilities, pursuant to section 48;
- a monetary order for unpaid rent and utilities pursuant to section 60; and
- authorization to recover the filing fee for this application, pursuant to section 65.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 9:40 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. The landlord's agent, DM ("landlord"), attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord's agent and I were the only ones who had called into this teleconference.

The landlord testified that the tenants were sent a copy of the dispute resolution hearing package ('Application') and evidence by way of registered mail on August 17, 2020. The landlord provided the tracking information in their evidence. In accordance with sections 81, 82, and 83 of the *Act*, I find that the tenants been deemed served with the Application and evidence on August 22, 2020, five days after mailing. The tenants did not submit any written evidence for this hearing.

The landlord testified that the tenants were served with the 10 Day Notice dated July 3, 2020, by posting the notice on the tenants' door. In accordance with sections 81 and 83 of the *Act*, I find the 10 Day Notice deemed served on July 6, 2020, three days after its posting.

**Issues to be Decided**

Is the landlord entitled to an Order of Possession?

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

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

**Background and Evidence**

This month-to-month tenancy began in August of 2013. Pad rental is currently set at \$800.05, payable on the first of the month.

The landlord served the tenants with a 10 Day Notice for failing to pay \$21,637.34 in outstanding rent as of March 1, 2020. The landlord provided a statement listing the outstanding rent for this tenancy. The landlord testified that the tenants made two payments on September 2, 2020, reducing the outstanding rent to \$3,437.64. The tenants continue to reside at the Manufactured Home Park.

The landlord seeks a monetary order of \$3,437.64, recovery of the filing fee, as well as Order of Possession.

**Analysis**

Section 39 of the *Act* provides that upon receipt of a notice to end tenancy for unpaid rent the tenant may, within 5 days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch, or pay the overdue rent. I find that the tenant has failed to do either of these two things within five days after the 10 Day Notice is deemed to have been received by the tenant. Accordingly, I find that the tenant is conclusively presumed under section 39(5) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 10 Day Notice, July 16, 2020.

In this case, this required the tenants and anyone on the premises to vacate the premises by July 16, 2020. As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession against the tenant, pursuant to section 48 of the *Act*.

**Section 20** of the Act, in part, states as follows:

**Rules about payment and non-payment of rent**

- 20** (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Based on the testimony of the landlord, and the supporting documents respecting matters of rent, I find that the tenants have failed to pay \$3,437.64 in outstanding rent. I find that the landlord is entitled to a monetary order in that amount.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee.

### **Conclusion**

I find that the landlord's 10 day Notice dated July 3, 2020 to be valid and effective as of July 16, 2020.

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

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee.

I issue a \$3,537.64 Monetary Order in favour of the landlord, which allows the landlord to recover unpaid rent plus the filing fee for this application.

The tenant(s) 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.

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 21, 2020

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Residential Tenancy Branch