



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 460445 BC LTD. & MEADOWS MH  
PARK and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR-DR, OPRM-DR, FFL

### Introduction

On January 18, 2021, the Landlord applied for a Direct Request proceeding seeking an Order of Possession for Unpaid Rent pursuant to Section 48 of the *Manufactured Home Park Tenancy Act* (the “Act”), seeking a Monetary Order for unpaid rent pursuant to Section 60 of the *Act*, and seeking to recover the filing fee pursuant to Section 65 of the *Act*. On February 10, 2021, this Application was set down for a participatory hearing on March 26, 2021 at 11:00 AM.

D.B. and W.L. attended the hearing as agents for the Landlord. The Tenant attended the hearing as well. All in attendance provided a solemn affirmation.

W.L. confirmed that the name of the Landlord noted on the Application was correct and she did not want it amended at all.

The Tenant advised that he was hard of hearing and that he purchased a special device to enable him to participate in the teleconference. Just in case, he was advised to inform myself if there was any information that he was unable to hear from myself or the other party. He indicated that he understood this, and he confirmed that he was fully capable of proceeding.

D.B. advised that the Notice of Hearing and evidence package was served to the Tenant by registered mail on February 12, 2021 and the Tenant confirmed that he received this package. Based on this undisputed testimony, and in accordance with Sections 82 and 83 of the *Act*, I am satisfied that the Tenant was duly served the Landlord’s Notice of Hearing and evidence package. As such, I have accepted this evidence and will consider it when rendering this Decision.

The Tenant advised that he served his evidence to the Landlord by registered mail on March 16, 2021. D.B. confirmed that this evidence was received and that they were prepared to respond to it. As such, I have accepted this evidence and will consider it when rendering this Decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

#### Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession for unpaid rent?
- Is the Landlord entitled to a Monetary Order for unpaid rent?
- Is the Landlord entitled to recovery of the filing fee?

#### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on November 17, 2014, that rent was currently established at \$397.00 per month, and that it was due on the first day of each month. A copy of the signed tenancy agreement was submitted as documentary evidence.

D.B. advised that the Tenant did not pay October, November, or December 2020 rent, so the 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") was served to the Tenant by registered mail on December 10, 2020. The Notice indicated that \$1,266.00 was outstanding on December 1, 2020 and that the effective end date of the tenancy was noted as December 20, 2020. She submitted that the tenancy agreement indicated that a \$25.00 fee for late payment of rent can be charged, so this amount was included on the Notice.

The Tenant confirmed that he received this Notice and he did not dispute it as he had undergone a heart operation on December 7, 2020 and is currently heavily medicated.

He confirmed that he did not pay rent for October, November, or December 2020, and he has not paid any rent since. Even though the amount of rent owing on the Notice was incorrect, he acknowledged being aware that rent was outstanding, and he confirmed that he did not have a valid reason for withholding the rent under the *Act*.

D.B. Advised that the Landlord is seeking an Order of Possession and a Monetary Order in the amount as follows:

- October 2020 rent: \$397.00
- November 2020 rent: \$397.00
- December 2020 rent: \$397.00
- January 2021 rent: \$397.00
- February 2021 rent: \$397.00
- March 2021 rent: \$397.00
- Total rental arrears: **\$2,382.00**

### Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

I have reviewed the Landlord's 10 Day Notice to End Tenancy for Unpaid Rent to ensure that the Landlord has complied with the requirements as to the form and content of Section 45 of the *Act*. I am satisfied that the Notice meets all of the requirements of Section 45.

Section 20 of the *Act* states that rent must be paid by the Tenant when due according to the tenancy agreement, whether or not the Landlord complies with the tenancy agreement or the *Act*, unless the Tenant has a right to deduct all or a portion of the rent.

Should the Tenant not pay the rent when it is due, Section 39 of the *Act* allows the Landlord to serve a 10 Day Notice to End Tenancy for Unpaid Rent. Once this Notice is received, the Tenant would have five days to pay the rent in full or to dispute the Notice. If the Tenant does not do either, the Tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice, and the Tenant must vacate the rental unit.

The undisputed evidence before me is that the Tenant received this Notice at some point and was deemed to have received it on December 15, 2020. According to Section 39(4) of the *Act*, the Tenant has 5 days to pay the overdue rent or to dispute this Notice. Section 39(5) of the *Act* states that *“If a tenant who has received a notice under this section does not pay the rent or make an application for dispute resolution in accordance with subsection (4), the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit to which the notice relates by that date.”*

As the fifth day fell on Sunday December 20, 2020, the Tenant must have paid the rent in full by this day or disputed the Notice by Monday December 21, 2020 at the latest. The undisputed evidence is that the Tenant did not pay the rent or make an Application to dispute the Notice. There is no evidence before me that permitted the Tenant to withhold the rent.

As outlined above, the undisputed evidence is that the rent was not paid in full when it was due, nor was it paid within five days of the Tenant being deemed to have received the Notice. Moreover, the Tenant did not establish that he had a valid reason for withholding the rent pursuant to the *Act*. In addition, the Tenant did not dispute the Notice. Consequently, I am satisfied that the Tenant is conclusively presumed to have accepted the Notice.

As the Landlord’s Notice is valid, as I am satisfied that the Notice was served in accordance with Section 81 of the *Act*, and as the Tenant has not complied with the *Act*, I uphold the Notice and find that the Landlord is entitled to an Order of Possession pursuant to Sections 45 and 48 of the *Act*.

I also find that the Landlord is entitled to a monetary award, and I grant the Landlord a monetary award in the amount of **\$2,382.00**, which is comprised of rent owed for the months of October 2020, November 2020, December 2020, January 2021, February 2021, and March 2021.

As the Landlord was successful in this Application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this Application.

Pursuant to Sections 60 and 65 of the *Act*, I grant the Landlord a Monetary Order as follows:

**Calculation of Monetary Award Payable by the Tenant to the Landlord**

October 2020 rent	\$397.00
November 2020 rent	\$397.00
December 2020 rent	\$397.00
January 2021 rent	\$397.00
February 2021	\$397.00
March 2021	\$397.00
Filing fee	\$100.00
<b>TOTAL MONETARY AWARD</b>	<b>\$2,482.00</b>

### Conclusion

Based on the above, I grant an Order of Possession to the Landlord **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.

The Landlord is also provided with a Monetary Order in the amount of **\$2,482.00** 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.

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 26, 2021

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Residential Tenancy Branch