



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the *Manufactured Home Park Tenancy Act*, (the “Act”), for an order of possession based on an undisputed One Month Notice to End Tenancy for Cause (the “Notice”) issued on January 21, 2021 and to recover the cost of the filing fee.

The landlord’s agent attended the hearing. As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that respondents must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord’s agent testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on March 15, 2021, to each of the tenants. Canada post tracking numbers were provided as evidence of service on each of the tenants. I have noted the Canada post tracking numbers on the covering page of this decision.

The Canada post history shows the tenant DK signed for the package on March 18, 2021. I find the tenant DK was served on March 18, 2021, in accordance with the service provision under the Act.

The landlord’s agent stated they do not know the date SH received the package; however, it was not returned to them as unclaimed.

Section 82 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenant SH has been duly served in accordance with the Act.

The landlord's agent appeared gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me. The agent confirmed they were not making any unauthorized recording of this hearing, in compliance with Rule 6.11.

### Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to recover the cost of the filing fee?

### Background and Evidence

The landlord's agent testified that the tenants were served with the Notice by registered mail sent on January 21, 2021. The landlord provided a copy of the Notice and Canada post tracking number as evidence. The Canada post tracking shows the tenant DK signed for the Notice on January 26, 2021. I have noted the Canada post tracking number on the covering page of this decision.

The agent stated that the tenants did not dispute the Notice and they recently heard from the tenant DK that they have left the site. The agent stated that the other tenants remains, on the site. The landlord seeks an order of possession.

The Notice explains the tenants had ten (10) days to dispute the Notice. The Notice further explains if the Notice is not disputed within the ten days that the tenants are presumed, under section 40(5) of the Act, to have accepted the Notice and must move out of the rental site by the date specified in the Notice.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I accept the evidence of the landlord's agent that the Notice was completed in accordance with Part 5 of the Act - How to End a Tenancy, pursuant to section 40 of the Act. A copy of the Notice was filed in evidence for my review and consideration.

I find the Notice was completed in the approved form and the contents meets the statutory requirements under section 45 the Act.

I accept the evidence of the landlord's agent that the tenants were served with the Notice in compliance with the service provisions under section 81 and 82 of the Act, as the tenant DK signed for the Notice on January 26, 2021.

I am satisfied based on the landlord's agent's testimony and supporting evidence that the landlord has met the statutory requirements under the Act to end a tenancy.

The tenants did not apply to dispute the Notice and therefore conclusively presumed under section 40 (5) of the Act to have accepted that the tenancy ended on the effective date of the Notice, which was February 28, 2021. I find the tenancy legally ended on February 28, 2021, and the tenants are overholding the rental site.

As the landlord has accepted occupancy rent for June 2021. I find that the landlord is entitled to an order of possession, pursuant to section 50 of the Act, **effective June 30, 2021 at 1:00 PM**. A copy of this order must be served upon the tenants. This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenants is cautioned** that costs of such enforcement are recoverable from the tenants.

I find that the landlord has established a total monetary claim of \$100.00 to recover the filing fee from the tenants for this application. I grant the landlord a formal monetary order to recover this award, pursuant to section 60 of the Act. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenants is cautioned** that costs of such enforcement are recoverable from the tenants.

### Conclusion

The tenants failed to dispute the Notice. The tenants are presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession, and a monetary order to recover the cost of the filing fee.

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: June 16, 2021

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Residential Tenancy Branch