



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding VILLERS MOBILE HOME PARK 1162672 BC LTD. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR-DR, MNR-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 to obtain an Order of Possession based on unpaid rent, to obtain monetary compensation for unpaid rent, and to recover the filing fee paid for the application.

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the landlord on September 17, 2021.

The landlord submitted a signed Proof of Service Notice of Direct Request Proceeding which declares that on September 29, 2021, the landlord sent the tenant the Notice of Dispute Resolution Proceeding - Direct Request by registered mail to the rental unit. The landlord provided a copy of an envelope containing the Canada Post 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 Direct Request Proceeding documents were served on September 29, 2021 and are deemed to have been received by the tenant on October 4, 2021, 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 relevant evidentiary material:

- A copy of a manufactured home park tenancy agreement which was signed by the landlord and the tenant on September 1, 2019, indicating a monthly rent of \$270.00, due on the first day of each month for a tenancy commencing on September 1, 2019
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated September 6, 2021, for \$1,640.00 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 September 20, 2021
- 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 11:00 (a.m. or p.m. not indicated) on September 7, 2021
- A copy of an envelope containing the Canada Post tracking number to confirm the 10 Day Notice was sent to the tenant on September 7, 2021
- 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 10 Day Notice was served on September 7, 2021 and is deemed to have been received by the tenant on September 12, 2021, five days after its registered mailing.

Section 39(4) of the *Act* states that within five days of a tenant receiving the 10 Day Notice, the tenant may either pay the rent or dispute the 10 Day Notice.

I find that the fifth day for the tenant to have either paid the rent or disputed the notice was September 17, 2021. I further find that the earliest date that the landlord could have applied for dispute resolution was September 18, 2021.

I find that the landlord applied for dispute resolution on September 17, 2021, the last day that the tenant had to dispute the 10 Day Notice and that the landlord made their application for dispute resolution too early.

Therefore, the landlord's application to end this tenancy and obtain an Order of Possession based on the 10 Day Notice dated September 6, 2021 is dismissed, with leave to reapply.

For the same reasons identified above, the landlord's application for a Monetary Order for unpaid rent is dismissed with leave to reapply.

As the landlord was not successful in this application, I find that the landlord is not entitled to recover the \$100.00 filing fee paid for this application.

### Conclusion

I dismiss the landlord's application for an Order of Possession based on the 10 Day Notice dated September 6, 2021, with leave to reapply.

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

I dismiss the landlord's application to recover the filing fee paid for this application without 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: November 26, 2021

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Residential Tenancy Branch