



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

**File No: 910171341**  
**Additional File: 910172184**

In the matter of the *Residential Tenancy Act*, SBC 2002, c. 78, as amended

Between

**Dana Jardine, Landlord(s),**

Applicant\Respondent(s)

And

**Christian Loerke, Tenant(s),**

Applicant\Respondent(s)

Regarding a rental unit at: 2140 Richmond Road, South Hazelton, BC

Date of Hearing: October 28, 2024, by conference call.

Date of Decision: October 28, 2024

Attending:

For the Landlord: Dana Jardine

For the Tenant: Christian Loerke



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## **DECISION**

Dispute Codes      CNR, OLC, OPR, MNRL

### Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Manufactured Home Park Tenancy Act* (the “Act”) for Orders as follows:

The landlords requested:

- an Order of Possession for unpaid rent pursuant to section 48;
- a monetary order for unpaid rent pursuant to section 60.

The tenant requested:

- cancellation of the landlords’ 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 39;
- an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement pursuant to section 55; and

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and arguments. The parties acknowledged receipt of evidence submitted by the other.

### Preliminary Issue – adding additional file to proceedings.

At the outset of the hearing, both parties advised that the Landlord filed an application for an order of possession and monetary order for unpaid rent. That hearing was scheduled for Friday November 1, 2024. As the issues are the exact same issues addressed in this hearing, I have included that file as part of this decision at the parties’

request for procedural fairness and efficiency. The parties provided their consent to do this.

Issue(s) to be Decided

Should the 10 Day Notice be cancelled, if not, is the landlord entitled to an Order of Possession based on the 10 Day Notice?

Is the landlord entitled to a monetary award for unpaid rent or money owed under the tenancy agreement, regulation, or *Act*?

Should an order be issued to compel the landlord to follow the Act, regulation or tenancy agreement?

Background and Evidence

The Landlord gave the following testimony. The Landlord testified that this tenancy began in September 2020. The Landlord testified that her father had a verbal agreement with the Tenant that the rent was to be \$250.00 a month, due on the first of each month. The Landlord testified that the Tenant was entitled to place his mobile home on the property and that he would also do some caretaker work for her father when needed.

The Landlord testified that her father passed away in October 2022 and since that time the Tenant has not paid any rent except for two small partial payments and has not carried out his work as a caretaker as promised. The Landlord submits that there is \$5,375.00 in unpaid rent owing. The Landlord testified that if successful in ending the tenancy, she is content for the order of possession to take effect on November 30, 2024.

The Tenant gave the following testimony. The Tenant testified that he originally had a tenancy agreement that required him to pay \$250.00 a month for rent but was advised by the current Landlords stepmother that rent was no longer necessary if he maintained the property after the Landlords father's death in October 2022. The stepmother has also passed away. The Tenant advised that he doesn't feel that any rent is owing and that he will move in the spring after the snow is gone.

### Analysis

The Tenant submits that he was more of an employee than a Tenant and that he was relieved of his obligation to pay rent in October 2022. The Tenant acknowledged that he did have a tenancy from September 2020 up to that point. The Tenant submits that there is no outstanding rent owing. The tenant did not provide any documentation to support his position that he did not have to pay rent. In addition, the tenant sent a message to the Landlord on September 23, 2024, confirming that he was required to pay \$250.00 a month in rent and that he demanded that the Landlord issue him the proper RTB form for unpaid rent, which he received on September 26, 2024.

I find that the tenant was required to pay rent every month during his time on the property and that there is insufficient evidence to state otherwise. I also find that the tenant failed to pay their rent in full within five days of being deemed to have received the 10 Day Notice.

Based on the evidence before me, I find that this tenancy must end. The Tenants request to cancel the notice is dismissed without leave to reapply. I find that the notice complies with section 45 of the MHPTA and find that the landlord is entitled to an Order of Possession. The landlord is granted an Order of Possession pursuant to Section 48 of the Act, which must be served on the Tenant. I agree with the Landlord that having the Order of Possession take effect at 1:00 p.m. on November 30, 2024, is appropriate under the circumstances before me. The Landlord may enforce this Order in the Supreme Court of British Columbia.

Based on the undisputed evidence provided by the landlord, I am satisfied that the tenant continues to owe the Landlord unpaid rent. I issue a monetary award in the Landlord's favour in the corrected amount of \$5,125.00.

As I have found that this tenancy is at an end, I need not consider the Tenants request to issue an order to the Landlord to comply with the Act, regulation or tenancy agreement, and therefore, dismiss that portion of their application.

### Conclusion

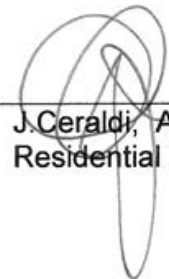
The landlord has established a claim for \$5,125.00. I grant the landlord an order under section 60 for the balance due of \$5,125.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

I grant an Order of Possession to the Landlord effective at 1:00 p.m. on November 30, 2024. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The Tenants application is dismissed in its entirety 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 *Residential Tenancy Act*.

Dated: October 28, 2024



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J. Ceraldi, Arbitrator  
Residential Tenancy Branch



# Residential Tenancy Branch

RTB-136

## Now that you have your decision...

All decisions are binding and both landlord and tenant are required to comply.

The RTB website ([www.gov.bc.ca/landlordtenant](http://www.gov.bc.ca/landlordtenant)) has information about:

- How and when to enforce an order of possession:  
Visit: [www.gov.bc.ca/landlordtenant/orders](http://www.gov.bc.ca/landlordtenant/orders)
- How and when to enforce a monetary order:  
Visit: [www.gov.bc.ca/landlordtenant/orders](http://www.gov.bc.ca/landlordtenant/orders)
- How and when to have a decision or order corrected:  
Visit: [www.gov.bc.ca/landlordtenant/review](http://www.gov.bc.ca/landlordtenant/review) to learn about the correction process
- How and when to have a decision or order clarified:  
Visit: [www.gov.bc.ca/landlordtenant/review](http://www.gov.bc.ca/landlordtenant/review) to learn about the clarification process
- How and when to apply for the review of a decision:  
Visit: [www.gov.bc.ca/landlordtenant/review](http://www.gov.bc.ca/landlordtenant/review) to learn about the review process  
**Please Note: Legislated deadlines apply**

To personally speak with Residential Tenancy Branch (RTB) staff or listen to our 24 Hour Recorded Information Line, please call:

- Toll-free: 1-800-665-8779
- Lower Mainland: 604-660-1020
- Victoria: 250-387-1602

Contact any Service BC Centre or visit the RTB office nearest you. For current information on locations and office hours, visit the RTB web site at [www.gov.bc.ca/landlordtenant](http://www.gov.bc.ca/landlordtenant)