



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Gib Randall Holdings Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with the landlord's application for dispute resolution under the *Manufactured Home Park Tenancy Act (the "Act")* for an order of possession for the manufactured home pad site due to unpaid pad rent, a monetary order for unpaid pad rent, and to recover the filing fee.

The landlord and his spouse attended the telephone conference call hearing; the tenant did not attend.

The landlord testified that they served the tenant with the Application for Dispute Resolution and Notice of Hearing by registered mail on October 22, 2013. The landlord supplied testimony of the tracking number of the registered mail.

Based upon the submissions of the landlord, I find the tenant was served notice of this hearing in a manner complying with section 82 of the Act and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession to the manufactured home pad site due to unpaid pad rent, a monetary order for unpaid pad rent and to recover the filing fee?

### Background and Evidence

The landlord testified that he was not sure of the length of time the tenant had occupied the manufactured home site as the tenant was already living there when he acquired

the property 2 ½ years ago. The landlord testified that current monthly pad rent was \$322.

The landlord gave evidence that on October 7, 2013, the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") by attaching it to the tenant's door, listing unpaid pad rent of \$1288 as of October 1, 2013. The effective vacancy date listed on the Notice was October 17, 2013.

Section 83 of the Act states that a document served by attaching it to the door is deemed delivered three days later. Thus the tenant was deemed to have received the Notice on October 10, 2013, and the effective move out date is automatically changed to October 20, 2013, pursuant to section 46 of the Act.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained the tenant had five days to file an application to dispute the Notice.

The landlord said that the tenant has not paid pad rent since the issuance of the Notice and is currently in arrears in monthly pad rent, owing the amount of \$322 each for July, August, September, October and November, 2013, for a total of \$1610.

I have no evidence before me that the tenant has filed an application for dispute resolution to dispute the Notice.

### Analysis

Based on the landlord's oral and written evidence and on a balance of probabilities, I find as follows:

I find the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, did not pay the outstanding pad rent or make an application to dispute the Notice within five days of service and is therefore conclusively presumed under section 39(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I therefore find that the landlord is entitled to an order of possession for the manufactured home pad site effective ten days after service of the order upon the tenant.

I also find that the landlord is entitled to a total monetary award of \$1660, comprised of outstanding pad rent of \$1610 for the months of July through November 2013, and the \$50 filing fee paid by the landlord for this application.

### Conclusion

The landlord's application has been granted.

I grant the landlord a final, legally binding order of possession pursuant to section 47 of the Act, which is enclosed with the landlord's Decision. Should the tenant fail to vacate the manufactured home pad site pursuant to the terms of the order after it has been served upon him, this order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenant is advised the costs of such enforcement are recoverable from the tenant.

I grant the landlord a final, legally binding monetary order for the amount of their monetary award pursuant to section 60 of the Act for the amount of \$1660, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised the costs of such enforcement are recoverable from the tenant.

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 (the "Act")* and is being mailed to both the applicant and the respondent.

Dated: November 29, 2013

---

Residential Tenancy Branch

