



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding RANDALL NORTH REAL ESTATE SERVICES INC  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MNSD

### Introduction

This hearing dealt with a landlord's application for an Order of Possession and Monetary Order for unpaid rent. The tenant did not appear at the hearing. The landlord testified that the Application for Dispute Resolution and other related hearing documents were posted on the door of the tenant's manufactured home on January 18, 2017.

Section 82 of the Act provides for ways an Application for Dispute Resolution must be served upon the respondent. Where a landlord seeks an Order of Possession, section 82(2) permits an Application to be posted to the door of the tenant's residence. However, an Application for a Monetary Order must be served in person or by registered mail, unless the applicant has authorization from the Director to serve in another way, under section 82(1).

Having been satisfied the landlord served the Application for Dispute Resolution on the door of the tenant's residence, I continued to hear from the landlord with respect to the landlord's request for an Order of Possession but I dismissed the landlord's request for a Monetary Order with leave to reapply.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

### Background and Evidence

The landlord testified that he took over property management duties for this property in October 2016 and this tenancy was pre-existing. There is no written tenancy agreement. Under the oral terms of tenancy the tenant is required to pay rent of \$200.00 on the first day of every month.

The landlord submitted that the tenant did not pay rent for September 2016, October 2016 or November 2016. On November 25, 2016 the landlord posted a 10 Day Notice to End Tenancy for Unpaid Rent on the tenant's door. The 10 Day Notice indicates rent of \$600.00 was outstanding as of November 1, 2015 [sic] and has a stated effective date of December 5, 2016. The landlord testified that the tenant did not pay the outstanding rent or file to dispute the 10 Day Notice.

The landlord testified that shortly after serving the hearing package upon the tenant the tenant sent an e-transfer of \$500.00 which the landlord received on February 3, 2017. The landlord stated that the funds were accepted for use and occupancy only. As of today's date the tenant owes \$700.00 for unpaid and/or loss of rent.

The landlord requested an Order of Possession with an effective date of February 28, 2017.

Documentary evidence provided for my review was a copy of the 10 Day Notice to End Tenancy for Unpaid Rent and a ledger showing the rental arrears.

### Analysis

Under section 20 the Act, a tenant is required to pay rent when due in accordance with their tenancy agreement. The Act recognizes oral tenancy agreements under the definition of "tenancy agreement". Accordingly, oral agreements are enforceable and I accept that the tenant is required to pay rent of \$200.00 on the first day of every month based upon the unopposed evidence of the landlord.

Where a tenant does not pay rent the landlord is at liberty to serve the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent. When a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent to nullify the Notice or the tenant has five days to dispute the Notice by filing an Application for Dispute Resolution. If a tenant does not pay the outstanding rent or dispute the Notice within five days then, pursuant to section 39(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end and must vacate the rental unit by the effective date of the Notice.

I accept the unopposed evidence before me that the landlord posted the 10 Day Notice to End Tenancy for Unpaid Rent on the tenant's door on November 25, 2016. Pursuant to section 83 of the Act, it is deemed to be received by the tenant three days later. Accordingly, the stated effective date automatically changes to read December 8, 2016 under section 46 of the Act.

Although the 10 Day Notice contained a typographical error (\$600.00 in rent was outstanding as of November 1, 2016 not November 1, 2015) I find the error is not so significant that it invalidates the Notices. Rather, I find the tenant's remedy remained to pay the outstanding rent or file to dispute the 10 Day Notice. Since he did neither, I find the tenant conclusively presumed to have accepted that the tenancy would come to an end for unpaid rent as of December 8, 2016.

Having heard the tenant made a partial payment of \$500.00 on February 3, 2017, which the landlord accepted for use and occupancy only, I am satisfied the tenancy was not reinstated. Therefore, I grant the landlord's request for an Order of Possession effective February 28, 2017.

Provided to the landlord with this decision is an Order of Possession with an effective date of February 28, 2017 to serve and enforce upon the tenant.

### Conclusion

The landlord had been provided an Order of Possession effective February 28, 2017.

The landlord's monetary claim has been dismissed with 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: February 07, 2017

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Residential Tenancy Branch