



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Angelo Milia & Family Corporation  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPT

### Introduction

This expedited hearing dealt with the tenant's application pursuant to the *Manufactured Home Park Tenancy Act* (the "Act") for an Order of Possession of the rental site pursuant to section 47.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The corporate landlord was represented by its agent (the "landlord").

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

As both parties were present service was confirmed. While there were some complaints about the timing of service, the parties each testified that they received the respective materials. Based on their testimonies I find each party duly served in accordance with sections 81 and 82 of the *Act* and in any event have been sufficiently served in accordance with section 64.

### Issue(s) to be Decided

Is the tenant entitled to an Order of Possession of the rental site?

### Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The parties agree on the following facts. The tenant purchased the manufactured home on the rental site in 2015 from its previous owner and assumed the tenancy with the landlord. Copies of the original tenancy agreement and the assignment of that agreement, signed and dated by the parties, were submitted into evidence.

The current monthly rent is \$641.06 payable on the first of each month. The monthly rent was increased as of January 1, 2022 by a Notice of Rent Increase issued by the landlord.

The parties agree that the tenant has removed the aged manufactured home that was on the rental unit site. The tenant seeks an Order of Possession so that they can place a new manufactured home on the rental site.

The parties made some submissions regarding the tenant's intended use of the rental unit site. The landlord submits that the tenant has indicated they intend to use the rental site for commercial purposes and this would be a breach of the tenancy agreement giving rise to an end of the tenancy.

### Analysis

In accordance with section 47 of the Act a tenant who has entered into a tenancy agreement may request an order of possession of the rental site.

Based on the undisputed testimonies of the parties and the documentary evidence I find that the tenant assumed a valid tenancy agreement in 2015 when they purchased the manufactured home situated on the rental unit site. I find the circumstances including the tenant's payment of monthly rent which has been accepted by the landlord and the landlord's issuance of a Notice of Rent Increase to support the existence of a valid and enforceable tenancy agreement between the parties.

I accept the evidence of the parties that the tenant has been denied access to the rental unit.

While the landlord gave evidence about the tenant's intended use of the rental site and their belief that this gives rise to cause to end the tenancy, I find that this does not grant the landlord the authority to unilaterally deny the tenant access to the rental unit. If the landlord believes there is a basis to end the tenancy they are at liberty to issue a valid Notice to End Tenancy pursuant to the *Act*. In the absence of an enforceable order or prior agreement between the parties I find the landlord does not have the ability to prevent the tenant from accessing the rental unit without taking the appropriate legislative steps.

I find that there is a valid tenancy agreement between the parties and the tenant is entitled to an Order of Possession of the rental site.

### Conclusion

I grant an Order of Possession to the tenant effective **2 days after service on the landlord**. Should the landlord or any occupant 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.

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: March 24, 2022

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Residential Tenancy Branch