



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      OPC, FFL

This hearing dealt with the Landlord's Application for Dispute Resolution, made on December 14, 2022. The Landlord applied for an order of possession based on an undisputed One Month Notice to End Tenancy for Cause and to recover the filing fee, pursuant to the Manufactured Home Park Tenancy Act (the Act).

The Landlord attended the hearing and provided a solemn affirmation at the beginning of the hearing. The Tenant did not attend the hearing.

The Landlord testified the Notice of Dispute Resolution Proceeding package was served on the Tenant in person on December 15, 2022, the day after the application was made. I find these documents were served on and received by the Tenant on that date.

The Tenant did not submit documentary evidence in response to the application.

The Landlord was provided with a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

1. Is the Landlord entitled to an order of possession?
2. Is the Landlord entitled to recover the filing fee?

### Background and Evidence

The Landlord testified the tenancy began in 2005. Currently, pad rent of \$394.00 per month is due on the first day of each month.

The Landlord testified the One Month Notice was served on the Tenant in person on November 23, 2022. A Proof of Service document was submitted in support. The Landlord testified he is unaware of any application for dispute resolution being filed by the Tenant. The Tenant continues to occupy the rental unit.

### Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 40(4) of the Act confirms that a tenant who receives a notice under this section has 10 days to dispute it by making an application for dispute resolution. Pursuant to section 40(5) of the Act, failure to do so results in the conclusive presumption that the tenant accepted the tenancy ends on the effective day of the notice and that the tenant must vacate the rental unit by that date.

In this case, I find the Landlord served the Tenant with the One Month Notice in person on November 23, 2022. Further, I find that the Tenant did not dispute the One Month Notice by making an application for dispute resolution within 10 days after receipt, pursuant to section 40(4) of the Act. Further, I find the One Month Notice complies with the form and content requirements of section 45 of the Act.

Considering the above, I find the Tenant is conclusively presumed to have accepted the tenancy ended on the effective date of the One Month Notice – January 1, 2023 – and must vacate the rental unit. As a result, I find the Landlord is entitled to an order of possession, which will be effective two days after service on the Tenant.

Having been successful, I find the Landlord is entitled to recover the \$100.00 filing fee paid to make the application. The Landlord is granted a monetary order for \$100.00.

Conclusion

The Landlord is granted an order of possession, which will be effective two days after it is served on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlord is granted a monetary order for \$100.00. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: April 24, 2023

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Residential Tenancy Branch