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A. Takeaway

This policy guideline clarifies circumstances respecting an arbitrator exercising their discretion in determining the effective date of an order of possession.

Keywords: Order of Possession

B. Related Guidelines

[Policy Guideline 24](#) outlines the grounds on which a review may be considered; when the RTB may refuse, accept, or dismiss an application for review of a decision or order; and the format of the hearing, if a review is granted.

C. Legislative Framework

The following sections describe orders of possession:

<i>Residential Tenancy Act</i> (RTA)	<i>Manufactured Home Park Tenancy Act</i> (MHPTA)
<ul style="list-style-type: none"> section 55 	<ul style="list-style-type: none"> section 48

Section 55 of the *Residential Tenancy Act* (the “RTA”) and Section 48 of the *Manufactured Home Park Tenancy Act* (the “MHPTA”) address when the director of the Residential Tenancy Branch (“the RTB”) must grant an order of possession to a landlord and when a landlord may request an order of possession of a rental unit. Section 55 of the RTA and Section 48 of the MHPTA state that the director may grant an order of possession before or after the date when a tenant is required to vacate a rental unit.

These sections also set out that an order of possession takes effect on the date specified by the director in the order. The date specified in the order of possession as the date the order takes effect is called the “effective date”.

If a party wants to apply for a review of a decision or order, including an order of possession, section 80 (a) (iii) of the RTA and section 73 (a)(iii) of the MHPTA require that a party apply for review within two days after receiving the decision or order if it relates to section 55 of the RTA and section 48 of the MHPTA.

D. Determining the effective date of an Order of Possession

An application for dispute resolution relating to a notice to end tenancy may be heard after the effective date set out on the notice to end tenancy. Effective dates for orders of possession in these circumstances have generally been set for seven days after the order is received.

While there are many factors an arbitrator may consider when determining the effective date of an order of possession some examples are:

- The point up to which the rent has been paid.
- The length of the tenancy.
 - e.g., If a tenant has lived in the unit for a number of years, they may need more than seven days to vacate the unit.
- If the tenant provides evidence that it would be unreasonable to vacate the property in seven days.
 - e.g., If the tenant provides evidence of a disability or a chronic health condition.
- If the tenant has pets or children.

An arbitrator is encouraged to also canvas the parties at the hearing to determine whether the landlord and tenant can agree on an effective date for the order of possession. If there is a date both parties can agree to, then the arbitrator may issue an order of possession using the mutually agreed upon effective date.

Expedited hearings:

An application for dispute resolution for an expedited hearing relating to:

- a notice to end tenancy for an expedited hearing under section 56 of the RTA and section 49 of the MHPTA, or
- an order of possession for a tenant under section 54 of the RTA and section

47 of the MHPTA.

Effective dates for orders of possession in these circumstances are generally set for two days after the order is received.

Ultimately, the arbitrator has the discretion to set the effective date of the order of possession and may do so based on what they have determined is appropriate given the totality of the evidence and submissions of the parties.

E. Case Law

[Morse v. Crystal River Court Ltd., 2021 BCSC 1868](#)

F. Policy Guideline Intention

The Residential Tenancy Branch issues policy guidelines to help Residential Tenancy Branch staff and the public in addressing issues and resolving disputes under the *Residential Tenancy Act* and the *Manufactured Home Park Tenancy Act*. This policy guideline may be revised and new guidelines issued from time to time.

G. Changes to Policy Guideline

Section	Change	Notes	Date Guideline Changed
New	New	New policy guideline	2022-07-21
All	Am	Formatted to new template	2024-02-28
D	Am	Change to seven days from two days	2024-04-28

Change notations

am = text amended or changed

del = text deleted

new = new section added