



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing dealt with the tenants' application seeking to have a 1 month Notice to End Tenancy for Cause set aside. The landlord and the female tenant appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision. I have not accepted or considered the tenants' documentary evidence as the tenants failed to provide a copy of their evidence to the landlord as required by the rules of procedure.

### Issues(s) to be Decided

Has the landlord established grounds under section 40 of the *Act* to end this tenancy due to the tenants' illegal activity which has affected the quiet enjoyment, security, safety or physical well-being of other occupants?

### Background and Evidence

This manufactured home park tenancy began on August 15, 2009 for the monthly site rent of \$350.00.

The landlord stated that the tenants moved into the park went relatively well at first; however, slowly problems related to smoking and inappropriate behaviour began to disturb other residents of the park. The landlord acknowledged that the tenants have licenses to smoke marijuana for medicinal purposes but stated that the drifting smoke as become a major issue to one of the occupants of the park. Apparently this other resident has gone to the health authority on this issue but no other evidence to this matter was provided by the landlord. There have also been issues with the driving

behaviour of the tenants and/or their guests. No warning letters or notices to end tenancy have been served related to any of these issues.

Matters escalated on July 23, 2010 when the male tenant was observed by other occupants of the park to be banging the side of a steel disposal tank. Allegedly, the tenant in question was yelling profanities and prompting people to get into a fight while banging the tank with a stick. The sound produced from this was similar to gunshot and as a result several occupants of the park contacted the police. The police did attend the scene where it was determined that no gunshots had been fired and the disturbance was caused by the banging on the steel disposal bin.

The landlord submits that the next evening the tenant confronted a group of occupants and acted in a threatening and provoking manner. The landlord stated that the behaviour was an attempt to start a fight. A letter submitted by the landlord from a witness to this event stated the following:

*“On the night in question a couple of the neighbours and I were standing in front of [removed] trailer having a conversation when we were interrupted by the male occupant of #13. He made a couple of rude comments, directed at [the landlord’s agent] who was not with us. One of the members made a joke about it and he came charging at us and got in our faces, bumping chests with us like he wanted to fight...”*

The landlord provided a couple of other witness letters confirming the above confrontation.

The landlord provided a written warning letter to the tenants on July 27, 2010 which reflected the disturbances caused by the tenants on the nights of July 23 & 24. The breach letter states that occupants of the park felt threatened and disturbed by the events. In this letter the landlord indicates that management of the mobile home park would be meeting to discuss “...future actions which must be taken in response to ensure the safety and well being of all involved residents.” [Reproduced as written]

On August 1, 2010 a vast majority of the other occupants of the mobile home park submitted a petition to the landlord. The petition requested the following:

*“This is a petition expressing our profound displeasure and concerns surrounding the attitude and disruptive behaviour of the residents(s) who have recently become occupants of unit #13 at G.L.M.H.P Prior to the arrival of these people we enjoyed a peaceful, co-operative life here. The bizarre, negative and*

*aggressive behaviour of one individual in that household has changed all of that and we hereby request that the necessary steps be taken to have the occupants of #13 evicted from G.L.M.H.P. so that the remainder of the residents here can resume the enjoyment of our homes in a co-operative, peaceful, and safe environment."*

A second petition was submitted to the landlord on August 5, 2010. This petition requested that the landlord take all reasonable and legal steps to, "...restrain [the tenants of unit #13] from molesting, annoying, harassing, interfering, threatening and communicating in a hostile manner with the other residents of GLMHP...".

The landlord called in three witnesses who described multiple events where one of the tenants responded in a seriously aggressive and threatening manner over a dispute. One witness described an exchange on August 6, 2010 between the tenant and himself and a group of friends. A joke was made; however, the response by the tenant was to yell, swear and "get into our faces". The witness described that this incident left him upset and concerned as it was so extreme for the situation. This event described by the witness is eerily familiar to the events on the evening of July 24, 2010.

Another witness described an event where the tenant's dog was off its leash and ran into his yard. He asked the tenant to put his dog back on a leash and the tenant came charging at him yelling that, "you don't know who you are fucking with".

On August 23, 2010 the landlord served the tenants with the 1 month Notice to End Tenancy for Cause. Included with the notice was a covering letter which specifically identified that the tenants' behaviours have significantly and unreasonably disturbed other occupants of the mobile home park. It is also the landlord's position that the tenants have engaged in illegal activities, namely acting in an aggressive and threatening manner to other occupants in breach of the *Manufactured Home Park Tenancy Act*.

Only one of the tenants appeared for the hearing yet the tenant who has been the source of most of the alleged complaints and serious allegations did not appear. The tenant present denied almost all of the allegations brought forward by the landlord and other occupants of the mobile home park. It was the tenant's position that the other residents were out to get them without good reason or cause. The tenant denied that the other tenant was banging the steel disposal bin on the night of July 23, 2010. Rather, the tenant stated that they were also awoken in the night by the banging sound and the other tenant went outside to investigate and has been targeted as being the one who caused the disturbance.

The tenant submitted that the other events described by the witnesses, such as the dog incident, did not occur as stated. The tenant suggested that the witnesses involved were intoxicated at the time of the events and also submitted that the witnesses were the aggressive and threatening participants. I note that the tenant present at the hearing was not present during all of the alleged confrontations and could not give evidence about the nature of the other tenant's response.

The tenant submitted that if they have been engaged in illegal activity as claimed by the landlord why have there been no charges laid?

The tenants stated that the events have been traumatic and they do not feel welcome in the mobile home park. They currently have their mobile home for sale and will leave once their home sells. However, the tenants dispute the 1 month Notice to End Tenancy for Cause and request that it be set aside and that the tenancy continues.

### Analysis

I am satisfied that the 1 month Notice to End Tenancy for Cause should be amended to include the ground that the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord. I am satisfied that through the letters provided to the tenants by the landlord that this ground for ending the tenancy was communicated to the tenants and they were aware, or ought to have been aware that their behaviour was significantly interfering with or unreasonably disturbing other occupants.

I am not persuaded by the oral testimony of the tenant that was present during the hearing. I find that the tenant has attempted to make excuses for the behaviour of the other tenant, without any support or evidence to demonstrate that the other tenant did not act in an aggressive and threatening manner towards several other residents of the mobile home park. The tenants have also failed to provide any evidence to support their argument that the landlords' witnesses are not credible or reliable.

I accept the testimony of two witnesses who personally experienced direct confrontations with the male tenant in the mobile home park. I accept their evidence that the tenant's behaviour and reaction was startling, aggressive and threatening. I also find that several witnesses have all experienced a similar reaction from the male tenant. I find that these actions by the male tenant meet the requirement of section 47 of the *Act* to end this tenancy on the basis that the actions are illegal activity and they significantly interfere with other occupants' quiet enjoyment.

I also accept, on the balance of probabilities that the male tenant was the individual banging on the steel disposal bin in the mobile home park on July 23, 2010 which resulted in a major disturbance for all residents. I do not accept the tenant's submission that kids were responsible as there is no evidence to support the tenant's claim. IN contrast the landlord has provided written witness statements who confirm that it was the male tenant. I find that this event on July 23, 2010 was another example of this tenant behaving in an aggressive and threatening manner.

I deny the tenants' application seeking to set aside the 1 month Notice to End Tenancy for Cause. I find on the evidence that the tenants have significantly and unreasonably disturbed other occupants of the mobile home park and that the tenants have engaged in illegal activity that has adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant. I accept that one of the tenants in particular has repeatedly been engaged in confrontations with other occupants in the park in a hostile, aggressive and physically threatening manner. I accept that these repeated incidents and disturbances have affected the peace in the mobile home park to the point that the majority of residents have submitted petitions to the landlord seeking a remedy. I accept the petitions as evidence that the tenants' actions have significantly interfered with the enjoyment of the mobile park by other occupants.

I grant the landlord's request for an Order of Possession. As this is a mobile home and the tenants are in the process of marketing the unit for sale, I find that an Order should be issued effective **November 30, 2010**. The landlord consented to this date as being the last date for possession of the manufacture home site in the circumstances.

### Conclusion

I dismiss the tenants' application seeking to set aside the 1 month Notice to End Tenancy for Cause. I have determined that there is sufficient grounds to end this tenancy as the tenants have engaged in activity which has significantly affected the quiet enjoyment, security, safety or physical well-being of other occupants of the mobile home park.

I have issued the landlord an Order of Possession effective **November 30, 2010 at 1:00 p.m.** This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: October 27, 2010.

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Dispute Resolution Officer