



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** MNDC FF

### **Introduction**

This is the Tenant's application for compensation for damage or loss arising from a Notice to End Tenancy for Landlord's Use issued in August, 2008; and to recover the cost of the filing fee from the Landlord.

The Tenant and the Landlord's agents provided affirmed testimony at the Hearing.

It was established that the Tenant served the Landlords with the Notice of Hearing documents and copies of his documentary evidence in accordance with the provisions of Section 82(1)(c) of the Manufactured Home Park Tenancy Act (the "Act"). It was also determined that the Landlords served the Tenant with copies of their documentary evidence in accordance with the provisions of Section 81(a) of the Act.

### **Issue(s) to be Decided**

- (1) Is the Tenant entitled to compensation pursuant to the provisions of Section 44(1) and 44(2) of the Act?

### **Background and Evidence**

The parties agreed on the following facts:

- The Landlords provided the Tenant with a Notice to End Tenancy for Landlord's Use (the "Notice") on August 15, 2008 because the Landlords were rezoning the manufactured home park for development which required all manufactured homes to be moved.

- The Tenant did not dispute the Notice and moved out of the manufactured home on the site on May 31, 2009. He partially removed the manufactured home from the site when he moved.
- Monthly site rent was \$228.81. The Tenant paid rent to and including June 1, 2009 and did not receive compensation pursuant to the provisions of Section 44(1) of the Act (equivalent of 12 months' rent).

### Tenant's evidence

The Tenant seeks compensation because he had to move out of his home and the Landlords have not done any development on the property, as they indicated they would. No permits have been given to commence the development of the property.

### Landlords' evidence

The zoning approval for the development was granted on August 11, 2008, but the Landlords could not get the permits required for developing the land until all of the manufactured homes were removed from the property. The Tenant's home was the last to be removed, by the Landlords, on October 11, 2009.

The Landlords and the City had an agreement that no development would take place until a river bank stabilization plan was approved by the City and the Department of Fisheries and Oceans ("DFO"). On May 1, 2010, the Landlords submitted their plan to the City and the DFO. On May 14, 2010, the DFO provided their written approval of the plan. The City required a geotech report, which was completed by a professional engineering firm on November 26, 2010. The engineer became ill in the winter of 2010 and was admitted to hospital in January, 2011. The engineer is still only working on a part-time basis. The report will be presented to the City for its approval next week.

### Analysis

The Tenant is seeking compensation under the provisions of Section 44 of the Act, which states:

**Tenant's compensation: section 42 notice**

**44** (1) A landlord who gives a tenant notice to end a tenancy under section 42 [*landlord's use of property*] must pay the tenant, on or before the effective date of the notice, an amount that is equivalent to 12 months' rent payable under the tenancy agreement.

(2) In addition to the amount payable under subsection (1), if steps have not been taken to accomplish the stated purpose for ending the tenancy under section 42 within a reasonable period after the effective date of the notice, the landlord must pay the tenant an amount that is the equivalent of 6 times the monthly rent payable under the tenancy agreement.

The Landlords did not provide the Tenant with compensation under the provisions of Section 44(1) of the Act, and I find that the Tenant is entitled to a monetary award in the equivalent of 12 times the amount of the site rent, \$2,745.72.

The Tenant is also seeking compensation because he believes that the Landlords have not taken steps to accomplish the stated purpose for ending the tenancy within a reasonable period of time. The Landlords provided evidence that there were delays, and the reasons for those delays. I find that the Tenant's application may therefore be premature. I accept that the delays thus far have not been due to the inaction of the Landlords. The Landlords testified that the City approval is finally forthcoming, and therefore the Tenant should see development of the site in the near future. The Tenant's application for compensation under the provisions of Section 44(2) of the Act is therefore dismissed with leave to reapply.

The Tenant has been successful in his application and is entitled to recover the cost of the filing fee from the Landlords

**Conclusion**

Pursuant to the provisions of Sections 44(1) and 65(1) of the Act, I hereby provide the Tenant a monetary order in the amount of \$2,795.72 against the Landlords. This order must be served on the Landlords and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an order of that Court.

The Tenant's application for a monetary award pursuant to the provisions of Section 44(2) of the Act is 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: April 11, 2011.

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Residential Tenancy Branch