



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **Decision**

### **Dispute Codes:**

OPC, FF

### **Introduction**

This hearing dealt with an application submitted by the landlord seeking an Order of Possession based on the One-Month Notice to End Tenancy for Cause dated June 23, 2011 and purporting to be effective July 31, 2011.

Both parties appeared and gave testimony.

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

The issue to be determined on the landlord's application, based on the testimony and the evidence is whether the landlord is entitled to an Order of Possession based on the One-Month Notice to End Tenancy for Cause.

The burden of proof is on the landlord to justify that the Notice to End Tenancy should be enforced and an Order of Possession issued.

### **Background and Evidence Notice to End Tenancy**

The landlord testified that the tenancy had started on May 12, 2011. The landlord testified that a One-Month Notice to End Tenancy for Cause was issued because the tenant failed to do repairs and comply with the park standard for occupancy. The landlord testified that the One-Month Notice to End Tenancy for Cause was served by posting in on the door of the tenant's manufactured home located on the site.

The tenant testified that, although she was not occupying the unit when the Notice was posted, she did receive the One-Month Notice to End Tenancy for Cause. The tenant testified that she did not dispute the Notice because of a conversation with the landlord during which the tenant had evidently expressed her intention to comply with the Park Rules and had also explained the timeline involved. The tenant testified that she believed that the landlord was not going to proceed with the termination of the tenancy. The tenant testified that she was shocked when the Notice of Dispute Resolution Hearing was served by the landlord. However, the tenant still did not make an

application to dispute the Notice as this was beyond 10 days from when the One-Month Notice to End Tenancy for Cause was received.

### **Analysis of Issue - Notice to End Tenancy**

Under section 40 of the Manufactured Home Park Tenancy Act states that a landlord may end a tenancy by giving One Month Notice if one or more of the following applies:

- (a) the tenant is repeatedly late paying the rent;
- (b) there are an unreasonable number of occupants on the site;
- (c) the tenant or a person permitted in the manufactured home park by the tenant has (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the manufactured home park; (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant; or (iii) put the landlord's property at significant risk;
- (d) the tenant or a person permitted in the manufactured home park by the tenant has engaged in illegal activity that: (i) has caused or is likely to cause damage to the landlord's property; (ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the manufactured home park, or; (iii) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- (e) the tenant or a person permitted in the manufactured home park by the tenant has caused extraordinary damage to a manufactured home site or the manufactured home park;
- (f) the tenant fails to repair damage to the site, as required under section 26 (3) *[obligations to repair and maintain]*, within a reasonable time;**
- (g) the tenant ;(i) has failed to comply with a material term, and (ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;
- (h) the tenant purports to assign the tenancy agreement or sublet the manufactured home site without first obtaining the landlord's written consent or an order of the director as required by section 28 *[assignment and subletting]*;
- (i) the tenant knowingly gives false information about the manufactured home park to a prospective tenant or purchaser viewing the manufactured home park;

(j) the manufactured home site must be vacated to comply with an order of a federal, British Columbia, regional or municipal government authority;

(k) the tenant has not complied with an order of the director within 30 days of the later of the following dates: (i) the date the tenant receives the order; (ii) the date specified in the order for the tenant to comply with the order.

(my emphasis)

The Act states that a tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice. However, if a tenant who has received a notice under section 40 does not make an application for dispute resolution in accordance with subsection (4), the tenant:

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.

In this instance, the tenant would have to file an application to dispute the Notice within the required 10 days after receiving the Notice. Although the tenant provided testimony contesting the landlord's position and the cause listed on the One-Month Notice, I find that the fact that this tenant failed to make an application to dispute the One-Month Notice created a conclusive presumption that the Notice was accepted and that the tenant would move. . I do not accept the tenant's disputed verbal testimony that the One-Month Notice to End Tenancy for Cause had been rescinded by the landlord during a conversation held on or around June 24, 2011.

Given the above, I find that, under the Manufactured Home Park Tenancy Act, an Order of Possession must be issued in favour of the landlord pursuant to the One-Month Notice.

### **Conclusion**

I hereby issue an Order of Possession effective two days after service on the tenant. This order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord is entitled to be reimbursed for the \$50.00 cost of filing this application. I hereby grant a monetary order in the amount of \$50.00 to the landlord. This Order must be served on the tenant and can be enforced through an application to through Small Claims Court if necessary.

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: August 31, 2011.

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Residential Tenancy Branch