



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNLC

### Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy for landlord's use of property: conversion of a manufactured home park. Both parties participated in the conference call hearing.

### Issue(s) to be Decided

Is the tenant entitled to any of the above under the Act.

### Background and Evidence

This property is zoned A-1 Primary Agriculture and there is one occupied manufactured home on the property in addition to a deregistered manufactured home, a sailboat, 5<sup>th</sup> wheel trailer, shed and a passenger vehicle. The tenant pays \$150.00 per month for pad rent on the legal non-conforming manufactured home.

The tenant testified that the landlord has not obtained any permits or approvals for conversion of the manufactured home park therefore the landlord's notice is not valid. The tenant contends that the landlord is not acting in good faith and that the landlord does not plan to convert all or a significant part of the manufactured home park to a non-residential use or a residential use other than a manufactured home park.

The tenant stated that he had attempted to reach an agreement with the landlord regarding compensation for his manufactured home however the landlord refused the tenant's request for \$30,000 compensation. The tenant stated that he is very concerned that he may not have the funds to move the manufacture home from the property to a new location.

The tenant maintained that the property is up for sale, the notice is retaliatory for a past arbitration and that the landlord is not acting in good faith. The tenant stated that he wanted current documents related to this property and that the landlord should not be able to rely on a decision and Supreme Court judicial review from 2008. The tenant

wished to refer to evidence from his prior hearing however the tenant has not provided that evidence for this hearing.

The landlord's counsel stated that the property is zoned A-1 Primary Agriculture and that as the landlord intends on using the property per the A-1 zoning, that as stated by Madam Justice Gerow in *Howe v 3770010 Canada Inc.*, 2008 BCSC 330, *'no further approval is required.'*

The landlord's counsel also refuted the tenant's testimony that the property is currently up for sale as the property in its current condition is not saleable. Counsel stated that there is an extensive amount of clean up of discarded items that must be completed before any changes can be made to the property.

The landlord's counsel per section 55 of the Residential Tenancy Act verbally requested an order of possession effective December 1, 2012.

### Analysis

Based on the documentary evidence and testimony of the parties, I find on a balance of probabilities that the tenant has not met the burden of proving that they have grounds for entitlement to have the landlord's November 1, 2011 notice to end tenancy for landlord's use of property set aside.

While the tenant's testimony disputing the landlord's good faith intention are duly recognized, I find that the tenant has not provided sufficient evidence in this regard and am satisfied that the landlord is acting in good faith as it relates to the landlord's intention to convert the Manufactured Home Park to "a non-residential use or a residential use other than a manufactured home park". I am not persuaded that the landlord is required by law to have an intention – good faith or otherwise – for the eventual use of the land.

The Supreme Court of British Columbia in 2008 under Judicial Review, Justice Madam Gerow determined in part, that while the legislation includes the wording *'if the landlord has all the necessary permits and approvals required by law'* that

*'It follows that 'approvals' in Section 17(2) as applied to Section 17(1)(e) should not be read as referring to physical changes or new construction, but rather the change in use, such as zoning changes. Since the land is presently zoned for commercial/tourist use, no further approval is required.'*

I accept that the landlord intends, in good faith, to convert the manufactured home park to a non-residential use or a residential use other than a manufactured home park. I am satisfied that the landlord is not required to have any permits or approvals to close the park as the use of the property will remain in line with the A-1 Primary Agriculture zoning and no further approval or permits are required.

The tenant's application is hereby dismissed without leave to reapply with the resulting effect that the tenancy will end on December 1, 2012 at 1:00 PM.

Conclusion

**The tenant's application is hereby dismissed without leave to reapply with the resulting effect that the tenancy will end on December 1, 2012 at 1:00 PM.**

I hereby grant the landlord an **Order of Possession** effective not later than **1:00 PM, December 1, 2012**. This Order must be served on the tenant(s) and may be filed in 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 *Manufactured Home Park Act*.

Dated: January 9, 2012

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Residential Tenancy Branch