



# 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 September 17, 2012.

Despite being served by registered mail sent on July 10, 2012, the respondent did not appear.

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

Is the landlord 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 a One-Month Notice to End Tenancy for Cause was issued for the tenant's failure to comply with the Act and Agreement. The landlord testified that the One-Month Notice to End Tenancy for Cause was served by registered mail sent on September 17, 2012.

A copy of the One Month Notice to End Tenancy for Cause dated September 17, 2012 and purporting to be effective October 17, 2012 was in evidence.

### **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.

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 and the tenant did not apply.

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.

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.

### **Conclusion**

The landlord is successful and is granted an Order of Possession.

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: December 10, 2012.

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Residential Tenancy Branch