



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, FF

### Introduction

This hearing dealt with an application by the tenant seeking to have a Notice to End Tenancy Set Aside. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

### Issues to be Decided

Is the tenant entitled to have the Notice set aside?

### Background and Evidence

The tenancy began on or about August 1996. The original owners passed down the trailer that sits on the pad in this park to the male tenant in August of 2003. Rent in the amount of \$225.00 is payable in advance on the first day of each month.

The tenants gave the following testimony; were shocked to have received a notice to end tenancy, were not aware that the park management was seeking to kick them out, have always planned to eventually move into the trailer when they retired, were not aware of any rules that they must be a resident tenant to remain on the pad, were of the belief that they were “grandfathered in” and would be able to remain in the park, wish to remain, would have tried to make arrangements with management if they were informed of the situation.

The landlords gave the following testimony; a decision issued by another Arbitrator in 2004 allowed the existing tenant’s to remain and that as each tenant moved on the management was entitled to change the pads from non –conforming mobile trailer pads to recreational vehicle pads, the subject tenant’s have never lived in their trailer, it has

been sub-let the entire time the mobile home has been in the park, the sub-let tenant has moved out as of January 2013 and the landlords feel that they have met the moral and contractual obligation, the landlords now wish to acquire that spot as the existing resident tenant from 2004 has moved on, the landlords issued a One Month Notice to End Tenancy for Cause on January 30, 2013 with an effective date of February 28, 2013, the basis for the issuance of that Notice was "Rental unit/site must be vacated to comply with a government order".

### Analysis

When a landlord issues a Notice for Cause they bear the burden of providing evidence to support their case. The landlords issued the Notice based on a government order. The government order they are relying on is a decision issued by an Arbitrator in 2004. The tenants are relying on that same order to argue their position. The decision was issued in the tenant's favour in 2004 and the notice to end tenancy at that time was set aside. The Arbitrator did not attach conditions to it. The landlords referred several times to the fact the tenant's breached the park rules and tenancy agreement yet neither of those documents were submitted for this hearing. Based on the documentary evidence submitted to me for this hearing it is not clear as to what rules, agreements, or arrangements were in place. The landlord has not provided sufficient documentation to support their position nor have they satisfied me that there is cause to end this tenancy. The One Month Notice to End Tenancy for Cause issued on January 30, 2013 with the effective date of February 28, 2013 is set aside. The notice is of no effect or force.

As the tenant's have been successful in their application they are entitled to the recovery of their \$50.00 filing fee. I order the tenants to make a onetime \$50.00 deduction of their rent payable for the month of April 2013.

### Conclusion

The Notice is set aside. The tenancy continues.

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: March 07, 2013

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Residential Tenancy Branch

