



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Georgian Properties Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, FF

### Introduction

This hearing dealt with the landlord's application for dispute resolution under the *Manufactured Home Park Tenancy Act (the "Act")* for an order of possession for the manufactured home pad site pursuant to a 1 Month Notice to End Tenancy for Cause (the "Notice") and to recover the filing fee.

The landlords attended the telephone conference call hearing; the tenant did not attend.

The landlord submitted documentary and oral evidence that they served the tenant with the Application for Dispute Resolution and Notice of Hearing by leaving it with the tenant on December 31, 2013. The landlord produced a copy of the tenant's signed acknowledgment that he received the landlord's application and Notice of Hearing.

Based upon the submissions of the landlord, I find the tenant was served notice of this hearing in a manner complying with section 82(1) of the Act and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession for the manufactured home pad site and to recover the filing fee?

### Background and Evidence

The undisputed evidence shows that this tenancy began on October 1, 2012, and monthly pad rent began at \$429.62, according to the written agreement. The landlord testified that the current monthly pad rent is \$447.18.

The landlord testified and submitted documentary evidence showing that the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause, dated November 21, 2013, by leaving it with the tenant on that date, listing an effective end of tenancy of December 23, 2013.

A notice to end the tenancy is not effective earlier than one month after the date the tenant receives the notice and the day before the day in the month that rent is payable under the tenancy agreement. In other words, one clear calendar month before the next rent payment is due is required in giving notice to end the tenancy. Section 46 of the Act allows the effective date of a Notice to be changed to the earliest date upon which the Notice complies with the Act; therefore, I find that the Notice effective date is changed to December 31, 2013.

The Notice explained that the tenant had 10 days to dispute the Notice. It also explains that if the tenant did not file an application to dispute the Notice within 10 days, then the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the manufactured home site by the effective date of the Notice. The landlord testified that the tenant has not vacated the manufactured home site.

The causes as stated on the Notice alleged that the tenant has breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord's additional relevant evidence included photographs depicting the reason the landlord claimed the breach of the tenancy agreement, written notices to the tenant, and the Notice.

I have no evidence before me that the tenant has filed an application for dispute resolution to dispute the Notice.

### Analysis

Based on the landlord's oral and written evidence and on a balance of probabilities, I find as follows:

I find the tenant was served a 1 Month Notice to End Tenancy for Cause as submitted by the landlord and did not file an application for dispute resolution in dispute of the Notice within 10 days of service of the Notice and is therefore conclusively presumed section 40(5) of the Act to have accepted that the tenancy ended on the effective vacancy date of the Notice.

I therefore find that the landlord is entitled to an order of possession for the manufactured home site effective **ten days** after service of the order upon the tenant.

I also find that the landlord is entitled to recovery of the \$50 filing fee paid by the landlord for this application.

### Conclusion

The landlord's application has been granted.

I grant the landlord a final, legally binding order of possession for the manufactured home site, which is enclosed with the landlord's Decision. Should the tenant fail to vacate the manufactured home site pursuant to the terms of the order after being served, the order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

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 (the "Act")* and is being mailed to both the applicant and the respondent.

Dated: February 13, 2014

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Residential Tenancy Branch

