



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking to end the tenancy early.

The hearing was conducted via teleconference and was attended by the landlord; her agent; her three witnesses and both tenants. I note that at the start of the hearing only the female tenant was in attendance, however, part way through the hearing the female tenant confirmed the male tenant was now in attendance. However, the male tenant did not provide any testimony.

While the parties provided substantial testimony regarding a number of events during the tenancy I have recorded, in this decision, only testimony relevant to the Application and issues before me.

At the outset of the hearing, I clarified that the landlord is the owner of the manufactured home that is located within a manufactured home park. The owner of the home has a tenancy with the manufactured home park and has subsequently rented the manufactured home to the named tenants. As such, I find the *Residential Tenancy Act (Act)* is the applicable legislation and not the *Manufactured Home Park Tenancy Act*.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for cause, pursuant to Sections 56 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The parties agreed the tenancy began on April 1, 2014 as a month to month tenancy for rent due on the 1<sup>st</sup> of each month. The landlord submits the rent is \$518.00 and the tenant submits that rent is \$520.00.

Both parties described a number of issues that have arisen during the tenancy between the tenants and other residents in the manufactured home park and the landlord. I note that each witnesses and landlord purport that the disturbances caused by the tenants

have given rise to the landlord's need to end the tenancy. The tenants submit that they have been constantly harassed by the other residents in the park.

The landlord submits that the male tenant has engaged in physical altercations with both the landlord and the park manager. The female tenant denies that any physical altercations occurred. The male tenant did not provide any testimony.

The landlord submits that on July 30, 2014 when she went to serve the tenants with a 1 Month Notice to End Tenancy the male tenant ran up behind her to the top of the stairs and body checked her and she almost fell off the stairs.

The landlord submits that on August 8, 2014, after previously providing the tenants with written notice of their intention to inspect the rental unit, the male tenant refused access to the landlord to the rental unit. The landlord submits that in so doing the male tenant blocked the landlord's entry to the unit.

The landlord's witnesses provided testimony that they had witnessed the male tenant aggressively preventing the landlord from entering the rental unit and that he physically blocked the landlord and in so doing nearly knocked her off of the stairs.

The female tenant testified that she had been watching the events from the rental unit and she stated that the male tenant did not make any physical contact with the landlord. The female tenant also submits that that the events took place on the opposite side of their unit out of vision for the neighbouring witnesses to observe.

The male neighbour provided testimony on behalf of the landlord that stated he saw these events from his window when he was driving home. The female tenant submitted that the witness could not have seen the altercation from his window because it was on the other side of their unit and he stated he was driving.

The park manager also provided testimony on behalf of the landlord and stated that he saw the male tenant purposely push the landlord and that she almost fell off the steps as a result.

The neighbouring witnesses also noted that throughout their occupancy the tenants had had many verbal altercations with them and the tenants had continuously caused disturbances by playing video games; television; and music at all hours and on an ongoing basis.

The park manager also testified that he had received complaints from other park residents about disturbances and that he had conversations with the tenants and advised them to keep the music down. The park manager also testified that he had also attempted to inform the male tenant on many occasions that he was watering his lawn contrary to local bylaws.

The park manager also recounted that during an altercation between the tenants and the neighbouring witnesses he attempted to step between the parties and asked them to stop shouting. The park manager went on to say that the male tenant physically pushed him out of the way and said he did not have to listen to him.

Neither of the tenants provided any testimony regarding this altercation.

### Analysis

Section 56 of the *Act* allows a landlord to request an order of possession to end the tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under Section 47 (1 Month Notice to End Tenancy for Cause) if one or more of the following applies:

- a) The tenant or a person permitted on the residential property by the tenant has
  - i. Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
  - 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;
  - iv. engaged in illegal activity that
    - a) Has caused or is likely to cause damage to the landlord's property,
    - b) Has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
    - c) Has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
  - v. caused extraordinary damage to the rental unit or residential property;
- b) And it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice to end the tenancy under Section 47 to take effect.

While the female tenant provided testimony that she did not see any physical contact between the male tenant and the landlord and the male tenant provided no testimony at all, I find the preponderance of testimony from the landlord and her three witnesses supports the landlord's assertion that the male tenant did have a physical altercation the landlord.

In addition, in the absence of any denial from either tenant, I find that the male tenant did push the park manager out of the way during a heated discussion between the male tenant and neighbours.

From the testimony of both parties, I find that based on a balance of probabilities, the landlord has provided sufficient evidence to establish the tenants have seriously

jeopardized the health and safety of the landlord and other occupants and as such she has cause to end this tenancy.

Further, I find that by the physical nature of the male tenant's responses to the landlord; the neighbours; and the park manager that it would be unreasonable for the landlord and other occupants to wait for a 1 Month Notice to take effect.

### Conclusion

Based on the above, I find the landlord is entitled to an order of possession effective **two days after service on the tenants**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be 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 *Residential Tenancy Act*.

Dated: September 8, 2014

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Residential Tenancy Branch

