



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 0921477 BC LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant for an Order cancelling a Notice to End Tenancy for Unpaid Rent or Utilities relating to two manufactured home sites and to recover the filing fee for the Application.

The Tenant and his Advocate, R.L. appeared. The Landlord appeared as well as J.G. the Manager of Administration. All parties gave affirmed testimony and were provided the opportunity to present her evidence orally and in written and documentary form, and to make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

1. Should the Notice be cancelled?
2. Is the Tenant entitled to recovery of the filing fee?

### Background and Evidence

The Tenant is the owner of two manufactured homes located on the Landlord's manufactured home park. Both Introduced in evidence was a copy of the residential tenancy agreement.

The Landlord purchased the manufactured home park pursuant to foreclosure proceedings in November of 2011. The tenancy began prior to the Landlord purchasing

the manufacture home park but both parties agreed that monthly pad rental was \$225.00 per month for each manufactured home owned by the Tenant. The Landlord testified that the last record of the Tenant paying the pad rent was in November 2010.

The Tenant testified that he sold the manufactured homes in 2010 to third parties on a "rent to own" basis. He says that he became aware later in 2010 that the new owners were behind on their pad rental and in November of 2010 he paid the outstanding amounts including the December 2010 pad rental.

The Tenant failed to pay rent for the 12 months in 2011, 2012, 2013 and 2014. Pursuant to a Supreme Court of B.C. Order made in the foreclosure proceedings, the outstanding rents from the period prior to the Landlord's purchase of the manufactured home park transferred to the new owner/Landlord by way of a Vesting Order.

The Landlord testified that he spoke to the occupants of both manufactured homes in the fall of 2012. Apparently, the occupants stated that they were paying the Tenant directly and that it was his responsibility to remit the pad rental to the Landlord. The Landlord testified that he spoke directly to the Tenant about the outstanding rent in January or February 2013.

Conversely, the Tenant stated that the first contact he had with the landlord was in March of 2013. In any case, the Landlord testified that at the March 2013 meeting, he provided the Tenant with a print out of the balances owing for both manufactured home sites, which at that time were \$6,075.00 for each site, or \$12,150.00 total.

Also introduced in evidence was a letter from R.L., an employee of the Landlord, dated August 16, 2013 in which the Landlord conveyed to the Tenant that the outstanding amounts as of that date were \$7,245.00 for each site, or \$14,850.00 owing.

The Landlord testified that despite being provided with this information, the Tenant did not pay the pad rentals until July 2014.

The Landlord issued and served two separate 10 day Notices to End Tenancy for non-payment of rent for both manufactured home sits on September 18, 2014 in which the amount of \$9,450.00 was noted as due as of September 1, 2014 for each site for a total owing of \$18,900 (the "10 Day Notices").

The Notices informed the Tenant that the Notices would be cancelled if the rent was paid within five days of service, namely, September 23, 2014. The Notices also explain

the Tenant had five days from the date of service to dispute the Notice by filing an Application for Dispute Resolution.

The Tenant filed a Tenant's Application for Dispute Resolution on September 25, 2014. In the details of dispute section, the Tenant wrote "Disagree with the rent owing amount". Notably, at the hearing, the Tenant failed to introduce any evidence which contradicted the amounts claimed by the Landlord; rather, the Tenant's position was that it was unfair for the Landlord to claim the outstanding rent after such a significant amount of time had passed.

The Landlord testified that the Tenant also did not pay the \$225.00 pad rent for each site for the months October and November 2014 such that the amount owing to the Landlord at the time of the hearing was \$19,800.00 for both units.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenant has not paid the outstanding rent and provided no evidence to contradict the amount claimed by the Landlord.

The Tenant, as registered owner of the manufactured homes, was aware that title had not transferred to the new owners. As such, a tenancy remained between the Tenant and the owner of the manufactured home park. The Tenant failed to provide any evidence which would support his claim that the new owners of the manufactured homes were to pay the pad rent to the Landlord. In any case, as the Tenant continues to be the registered owner of the manufactured homes, he is liable for the pad rental, irrespective of whether he may have had a separate contract with third parties. Any relief the Tenant may wish to pursue as against the prospective purchasers of the manufactured homes is outside my jurisdiction.

The parties disagree as to when the Landlord discussed the outstanding rent with the Tenant; however, both parties agree that a discussion occurred in March of 2013 and clearly the Tenant was aware of the outstanding amounts at that time. The Tenant failed to pay the rent until July of 2014 leaving a significant outstanding balance.

Under section 20 of the Act, the Tenant must not withhold rent, even if the Landlord is in breach of the tenancy agreement or the Act, unless the Tenant has some authority

under the Act to not pay rent. In this situation the Tenant had no authority under the Act to not pay rent and accordingly the tenancy will end in accordance with the Notices.

### Conclusion

The Tenant failed to pay rent and the Notices are upheld the tenancy will end in accordance with the Notices.

The Landlord did not request an Order of Possession and if the Landlord wishes to pursue an Order of Possession and a Monetary Order for unpaid rent, it will be up to the Landlord to apply for dispute resolution and provide evidence to support the claims in the application.

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 03, 2014

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Residential Tenancy Branch

