



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 480094 BC Ltd  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET, FF

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Manufactured Home Park Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of possession – Section 49; and
2. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing in person on March 28, 2015 in accordance with Section 89 of the Act. The Tenant did not appear but an Occupant of the rental unit appeared. The Landlords and Occupant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

### Preliminary Matter

The Occupant states that no evidence package was received and that she has no knowledge of the details of the dispute other than the papers that she found on her door on March 30, 2015. The Occupant states that the papers include the notice of hearing and a copy of the tenancy agreement between the Landlord and the Tenant. The Landlord states that the Tenant was given a copy of the evidence package but none was delivered to the rental unit. It is noted that the Landlord’s evidence package was provided to the Residential Tenancy Branch (the “RTB”) on April 9, 2015 and the application was made on March 27, 2015.

Rule 11 of the RTB Rules of Procedure provides that when a landlord is seeking an early end to the tenancy, the landlord must submit to the RTB all evidence with the application for dispute resolution, or, when applying online, the next day. The Landlord did not provide the evidence to the RTB as required under the Rules and it is noted that the Landlord did not make its application online. As such I find that I may not consider this evidence.

#### Issue(s) to be Decided

Is the Landlord entitled to an order that the tenancy end early and an order of possession?

#### Background and Evidence

The tenancy began on December 15, 2005. No rent is provided for in the tenancy agreement.

The Landlord states that in March 2015 the Landlord became aware of occupants in the unit. The Landlord states that they are causing significant problems. The Occupant states that she is renting the unit from the named Tenant's son and has been since November 2014. The Tenant states that nobody has ever raised any problems with her about anything during the tenancy.

The Landlord states that these persons have two large and dangerous dogs that are of concern. The Landlord states that he has never seen these dogs as they are inside the unit whenever the Landlord is present. The Landlord states that the park rules prohibit large dogs as only small dogs are allowed. The Landlord has no evidence of any dog bites but states that the dogs attacked a postal worker and neighbours are afraid.

The Occupant states that she has two cross terrier bulldogs that are little and only 11 months old. The Occupant states that nobody has ever said anything to her about rules for dogs. The Occupant states that she has not received any complaints from anyone about the dogs. The Occupant states that on the one occasion when the Occupant's

dogs approached a neighbour's dog, no attack occurred and that the Occupant's dogs were only playful. The Occupant states that the neighbour told the neighbour that she was fine about the interaction.

The Landlord states that piles of garbage have been accumulating outside the unit and that this is attracting bears. The Landlord states that just prior to the hearing the Landlord was informed that a bear had entered the unit. The Landlord states that both health and wildlife agencies have been informed. The Occupant states that garbage was outside the unit when she moved in and that despite re-bagging and securing the garbage in the garage a bear entered the garage. The Occupant states that the garbage is household garbage and not hers, that she is disabled, that the garbage cannot be removed to the dump as no vehicle is available and that the local weekly garbage pickup is restricted to one bag at a time. The Occupant states that she will remove the garbage anyway.

The Landlord states that if the dogs and garbage were gone it "would be okay" but that there is a problem with the steady presence of the police. The Landlord has suspicions that something illegal is taking place at the unit given the number of persons who come and go from the unit. The Landlord states that there are also numerous cameras placed on the unit so that the occupants know who is coming to the unit.

The Occupant states that nothing illegal is going on and that while she has noticed the police drive past on occasion that the police have only attended the unit once when the dogs barked. The Occupant denies that anybody is coming and going from the rental unit and states that she sits "for days without any person coming." The Occupant states that there is only one camera, that it was put up by the person she rented the unit from and that it is a fake camera.

### Analysis

Section 49 of the Act provides that a tenancy may be ended early and an order of possession provided to a landlord where:

- (a) the tenant or a person permitted in the manufactured home park by the tenant has done any of the following:
  - (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;
  - (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 manufactured home park, 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 manufactured home park, and
- (b) it would be unreasonable, or unfair to the landlord or other occupants of the manufactured home park, to wait for a notice to end the tenancy under section 40 [*landlord's notice: cause*] to take effect.

While it may be that significant garbage is at the unit, and it is clear that a bear has been at the unit, there is no evidence that this issue was raised with the Tenant or the Occupant before now and I accept the Occupant's undisputed evidence that the garbage was present and outside of the unit in November 2014. I cannot imagine how the Landlord would not have addressed this issue with the Tenant before spring, particularly if the Landlord was concerned about bears and not aware of anyone living in the unit until March 2015. If the matter has become urgent now I find that this is primarily due to the Landlord's lack of action in seeking to have the garbage removed. I also consider the Occupant's evidence that the garbage will now be removed despite the problems cited by the Occupant.

There is no supported evidence of dog attacks and no evidence of bites. I consider third hand and indirect evidence in relation to an attack on a postal worker to be very weak evidence given the type of application being made. It appears more likely, considering the overall evidence of the Landlord, that the real issue for the Landlord is illegal activity. However, the Landlord has only provided evidence of suspicions or rumours of illegal activity which I consider to be insufficient to establish that an illegal activity was or is taking place at the unit.

For these reasons, I find that the Landlord has failed to provide sufficient evidence to either substantiate the reasons or the degree of urgency required to end the tenancy without some warning or the provision of a one month's notice. I therefore dismiss the Landlord's application.

#### Conclusion

The Landlord's application is dismissed.

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: April 24, 2015

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Residential Tenancy Branch

