



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OLC, O

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenant for an order that the landlords comply with the *Act*, regulation or tenancy agreement.

The tenant, one of the named landlords and his spouse attended the hearing, and the named landlord also represented the other named landlord. The parties and the landlord's spouse each gave affirmed testimony and provided evidentiary material in advance of the hearing. However, some of the evidentiary material of the landlords was not received by the tenant prior to the commencement of the hearing. The landlord testified that the material was sent to the tenant by registered mail but did not provide the date that it was sent. The material was received by the Residential Tenancy Branch on August 26, 2015 and assuming the tenant's copy was sent by registered mail the same day, it would be deemed to have been received 5 days later, or on August 31, 2015, 2 days prior to the hearing. I find that the landlord's material was not submitted in accordance with the Rules of Procedure, and that evidence is not considered in this Decision.

The parties were given the opportunity to question each other with respect to the testimony and the balance of the evidentiary material, all of which has been reviewed and is considered in this Decision. No further issues with respect to service or delivery of documents or evidence were raised.

### Issue(s) to be Decided

Should the landlords be ordered to comply with the *Act*, regulation or tenancy agreement, and more specifically with respect to notices issued to the tenant, and the terms of the tenancy agreement?

## Background and Evidence

**The tenant** testified that this month-to-month tenancy began on May 1, 2014 although the tenant moved in on the 13<sup>th</sup> of April, 2014, and still resides in the rental unit. The rental unit is a manufactured home situated in a manufactured home park. Rent in the amount of \$410.00 per month is payable on the 1<sup>st</sup> day of each month and there are no rental arrears. The landlord did not collect a security deposit or a pet damage deposit from the tenant. The rental unit is a manufactured home in a manufactured home park, and the tenant pays her rent to the manufactured home park which covers the pad rental.

The tenant further testified that the landlord named in the tenancy agreement is acting for the owner, who is the other landlord named in the tenant's application, and who did not attend the hearing. The parties entered into a tenancy agreement with a 1-page Addendum, a copy of which has been provided. The tenant was told by the landlord named in the tenancy agreement that the rent money should be paid to the manufactured home park to cover the pad rental, which was raised by \$10.00 per month and the tenant has continuously done so. The tenant has also given to the manufactured home park post-dated cheques of \$410.00 each month up to May, 2016.

The tenant received a letter by registered mail on June 22, 2015 from one of the owner, a copy of which has been provided, which is entitled 2 MONTH NOTICE TO VACATE. No reason for ending the tenancy is included in the letter but states that the tenant must vacate the premises by August 31, 2015, and states that if the tenant pays the pad rental for July, 2015 the owner will pay it for the month of August.

The tenant seeks an order that the landlords comply with the *Act* by refraining from giving the tenant notices to vacate the rental unit that do not comply with the *Act*. The tenant also seeks an order that the landlords comply with the tenancy agreement with respect to the amount of rent payable and the Addendum.

**The landlord** testified that he was working on the manufactured home as much as he could with the money given. Major renovations were done, such as new cabinets, flooring, relocating the washer and dryer in the bathroom using the closet space, a new vanity and tub. The tenant approached him about renting it and the landlord told her about the renovations and told her it would take some time, but the tenant was in desperate need of a place to live.

**The landlord's witness** is the wife of the landlord and testified that pad rent was to be separate. The rent of \$400.00 is for the manufactured home, not for the pad rental.

The tenant has not paid the landlords any rent, only the pad rental. The tenancy agreement contains an Addendum which states that the tenancy will continue until the manufactured home sells, contemplating a sale to the tenant.

### Analysis

I have reviewed the document entitled “2 Month Notice to Vacate,” and I find that it is not in the approved form, does not contain information required by the *Residential Tenancy Act*, and is not enforceable. Such notices are therefore no more than a nuisance to a tenant because they cannot be acted upon.

I have also reviewed the tenancy agreement and attached Addendum. The tenancy agreement clearly states that rent is \$400.00 per month, and the tenant testified that she pays that to the manufactured home park as instructed, and pad rental went up by \$10.00 per month and she has been paying that as well. Included in the rent are kitchen and laundry appliances, window coverings, storage, garbage collection and parking for 3 vehicles. The Addendum, signed by both parties, states that the tenant has possession of the rental unit at \$400.00 per month until she purchases it. The landlord’s witness testified that that term was made in contemplation of the tenant purchasing it, and I accept that. I also find the term to be unconscionable because it is made solely for the purpose of purchasing and makes no reference to what happens if the tenant never purchases it.

However, a tenancy exists in the terms of the agreement, and I am satisfied that the tenant has established that the landlords should be ordered to comply with the *Act* and the agreement. I also note that the tenancy agreement specifies that the tenant pay rent to the landlord, not to the manufactured home park. If the parties care to make other arrangements for the payment of rent to go through another party, the parties may do so. However, the terms of the tenancy agreement apply, and the parties should give some consideration to putting such agreements in writing.

Since the tenant has been successful with the application, the tenant is also entitled to recovery of the \$50.00 filing fee.

### Conclusion

For the reasons set out above, I order the landlords to refrain from issuing notices to end the tenancy that do not comply with the *Act*, and I order the landlords to comply with the terms of the tenancy agreement.

I hereby order that the tenant reduce rent for a future month by \$50.00 as recovery of the filing fee.

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 11, 2015

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Residential Tenancy Branch

