



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Redfern Holdings Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, OPB, FF

### Introduction

This was a hearing with respect to the landlord's application for an order for possession pursuant to a one month Notice to End Tenancy for cause. The hearing was conducted by conference call. The landlord's representatives called in and participated in the hearing. The tenant did not attend the hearing. The landlord submitted postal records that showed that the landlord sent the application and Notice of Hearing to the tenant by registered mail on September 4, 2015. The records showed that delivery of the registered mail was attempted and a notice card was left for the tenant stating where the item could be picked up. The tenant failed to pick up the registered mail and it was eventually returned to the landlord. The *Manufactured Home Park Tenancy Act* provides by section 82 that a tenant may be served with an application by sending a copy to the tenant to the address where she resides. Pursuant to section 83 of the Act, the tenant is deemed to have received the documents on the 5<sup>th</sup> day after they have been mailed. The tenant's neglect or refusal to accept the registered mail is not a valid reason for failing to attend a hearing or to respond to the document and I find that the tenant is deemed to have received the documents pursuant to section 83 as of September 9, 2015.

### Issue(s) to be Decided

Is the landlord entitled to an order for possession pursuant to the one month Notice to End Tenancy?

### Background and Evidence

The rental unit is a home site in the landlord's manufactured home park. The tenancy began in 2013 when the tenant purchased the manufactured home on the site.

The landlord issued a one month Notice to End Tenancy for cause dated August 19, 2015. The Notice to End Tenancy required the tenant to move out of the rental unit by September 19, 2015. The earliest date that the Notice to End Tenancy could have been effective was September 30, 2015. The Notice to End Tenancy claimed that the tenant breached a material term of the tenancy agreement that was not corrected within a reasonable time after notice to do so. The landlord sent the Notice to End Tenancy to the tenant by registered mail on August 19, 2015. According to the Canada Post records submitted by the landlord, on August 20, 2015 the tenant refused to accept the registered mail and it was then returned to the landlord.

The landlord gave the tenant a series of letters concerning the tenant's alleged failure to perform yard work and the tenant's unauthorized alterations to the home site.

The tenant has not applied to cancel the Notice to End Tenancy.

The landlord's representative testified that the tenant has advertised her home for sale and that he has been contacted by the tenant's realtor who claimed that the tenant's home has been sold. According to the landlord's representative, the realtor was advised that the home could not be sold without the landlord's permission and that eviction proceedings were underway.

The landlord has received and accepted the tenant's rent payment for November.

### Analysis

Section 40 (4) of the *Manufactured Home Park Tenancy Act* provides that a tenant may dispute a Notice to End Tenancy for cause by making an application for dispute resolution within 10 days after the date that the tenant receives the Notice. If the tenant does not dispute the Notice to End Tenancy within the time provided, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. The earliest day that the Notice could be effective was September 30, 2015, but because rent has been paid for the month of November, I find that an order for possession should not be effective before November 30, 2015.

I note that the landlord's representative testified that the tenant has listed her manufactured home for sale. The fact that an order for possession has been granted does not preclude the tenant from selling her unit and the landlord must not

unreasonably withhold its approval of any sale to a prospective purchaser. I make no order with respect to the recovery of the filing fee for this application.

Conclusion

*Order of Possession* - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession November 30, 2015, after service on the tenant. This order may be filed in the Supreme Court and 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 *Manufactured Home Park Tenancy Act*.

Dated: November 05, 2015

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Residential Tenancy Branch

