



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ISLAND BROAD BAND LTD.  
and name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, FF

This hearing dealt with the landlord's application pursuant to the *Manufactured Home Park Tenancy Act* (the "Act") for an order of possession pursuant to section 48 and recovery of the filing fee.

Both parties attended the hearing and were given a full opportunity to present affirmed testimony, to make submissions, to respond to submissions, and to call witnesses.

Over the course of the hearing the individual who had been named as the tenant advised that he was the director of the corporate tenant, and that the corporate tenant owns the manufactured home on the rental site at issue. The fact that the tenant is a corporation is reflected in the tenancy agreement submitted in evidence. The tenancy agreement also reveals that there is a corporate landlord which had not been named in the landlord's application. I have amended the style of cause to reflect the fact that the tenant here is a corporation, and that one of the landlords is also a corporation.

The individual landlord testified that she personally served the director of the corporate tenant with the 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") dated September 8, 2016 on that same date. The landlord submitted a Proof of Service document in support of her testimony, signed by a witness confirming that he had seen the landlord personally serve the director with the 1 Month Notice on September 8, 2016 by handing a copy to him.

Although the director testified that he did not recall having been served the 1 Month Notice on September 8, 2016, he agreed that he had received the landlord's Notice of Hearing dated November 25, 2016, along with landlord's Application for Dispute Resolution dated November 23, 2016 (the "Application") and supporting materials on November 30, 2016, when he and the landlord met in person. He also agreed that the supporting materials included a copy of the 1 Month Notice. Accordingly, I find that the tenant was served with both the 1 Month Notice and the Application on November 30, 2016.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for cause?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

While I have turned my mind to all the documentary evidence as well as the testimony of the parties, not all the details of the respective submissions are reproduced here.

Both parties agreed that this is a month to month tenancy which began on or about December 1, 2013. The monthly rental amount is \$240.00 payable on the 15th. The tenant has been subletting the rental site and the cause alleged by the landlord is largely with respect to the conduct of the subtenants, although the landlords also allege that the sublease is unauthorized.

The director of the corporate tenant testified that he did not file an application to dispute the 1 Month Notice as he had not understood that he was required to do so. The director did file a written response to the landlords' application on December 29, 2016, along with letters of the same date from the subtenants and from the former mobile home park manager. Both of these letters speak to whether the sublease was authorized or not.

Analysis

Section 40(4)-(5) of the Act together provide that upon receipt of a notice to end tenancy for cause the tenant must, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does not do so, the tenancy ends on the effective date of the 1 Month Notice.

As set out above, the tenant admits that an application for dispute resolution was not filed within the allotted time in response to the landlord's 1 Month Notice. Accordingly, I find that the tenant is conclusively presumed under section 40(5) of the Act to have accepted that the tenancy ends on the effective date of the 1 Month Notice.

Section 48(4) authorizes me to grant an order of possession without any further dispute resolution process where the tenant has not disputed a notice to end tenancy within the allotted time. Accordingly, I will grant an order of possession, but that order will be effective on the corrected effective date as set out below.

Section 40(2) of the Act requires that the effective date of a notice to end tenancy be not earlier than one month after the date the notice to end tenancy was received and the day before the day in the month that rent is payable under the tenancy agreement. In this case the rent was due on the 15th, and the 1 Month Notice was received on November 30, 2016, with the result that the corrected effective date of the 1 Month Notice is January 14, 2017.

As the landlords' application was successful, the landlords are also entitled to recovery of the \$100.00 filing fee for the cost of this application.

#### Conclusion

I grant an Order of Possession to the landlord effective **at 1:00 p.m. on January 14, 2017**. Should the tenant(s) or any occupant on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary Order in the landlord's favour in the amount of \$100.00.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9 of the Act. Pursuant to s. 70 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: January 05, 2017

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Residential Tenancy Branch