



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, O

### Introduction

This hearing was convened by way of conference call in response to the tenant's application for an Order to cancel a One Month Notice to End tenancy for Cause (the Notice) and other issues.

The tenant and landlord attended the conference call hearing, and were given the opportunity to be heard, to present evidence and to make submissions under oath. The tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing, and the tenant was permitted to provide additional evidence showing a copy of the Notice during the hearing. The landlord confirmed receipt of evidence. 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.

### Issue(s) to be Decided

Is the tenant entitled to an Order to cancel the Notice?

### Background and Evidence

The parties agreed that this tenancy started in October, 2007. The tenant owns her trailer and rents this lot on the landlord's property. This is not located on a Manufactured

Home Park but is rather a manufactured home site and therefore falls under the *Manufactured Home Park Tenancy Act*. Rent for this site is \$200.00 per month due on the 1<sup>st</sup> of each month.

The landlord testified that he served the tenant with the Notice on November 25, 2016 by posting the Notice to the door of the unit. This Notice has an effective date of December 31, 2016. The Notice states that the tenant has breached a material term of the tenancy agreement which was not corrected within a reasonable time after written notice to do so.

The landlord testified that he had a verbal agreement with the tenant that she could continue to rent this site for \$200.00 per month and that her rent would not be increased as long as she maintained the site, she does not sublet the trailer and that if she sold the trailer no one else could live in the trailer on the site and the trailer would have to be removed. The landlord testified that the tenant has left the trailer and did not inform the landlord. The landlord found out that the tenant has not been maintaining the yard although her trailer has been maintained. The landlord agreed he has not provided the tenant with written notice to correct the breach of their verbal agreement.

The tenant testified that she has been away from the trailer for the past year travelling but has had someone go to stay at weekends and to go and visit the trailer to ensure the yard and trailer are maintained. The pad rent is always paid on time and currently the trailer is up for sale. Last year was a dry summer and the lawns did not need to be mown as much but a friend does go over and look after the tenant's garden.

The tenant disputed that she has been given any breach letter from the landlord. The tenant agreed with the landlords testimony concerning their verbal agreement and the terms of that agreement but disputed that she has breached any of the verbal terms as stated by the landlord. The tenant seeks to have the Notice cancelled and for the tenancy to continue at this time.

### Analysis

After careful consideration of the testimony and documentary evidence before me and I find as follows: I direct the parties to the *Manufactured Home Park Tenancy Act* s.

40(1)(g) which states:

**40 (1)** *A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:*

*(g) the tenant*

*(i) has failed to comply with a material term, and*

*(ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;*

I am not persuaded by the evidence before me that the tenant has breached a material term of the tenancy agreement. The landlord has the burden of proof in this matter and when it is one person's word against that of the other then the burden of proof has not been met. The landlord has insufficient evidence to corroborate his testimony that the tenant has breached any of the terms of their agreement. Furthermore; the landlord agreed he has not served the tenant with written notice to correct any material breach of their agreement. Consequently, I find at the time the landlord served the Notice upon the tenant that this was served prematurely.

I therefore allow the tenant's application to cancel the Notice and the tenancy will continue until legally ended.

### Conclusion

The tenant's application is allowed. The one Month Notice to End Tenancy for Cause dated November 24, 2016 is cancelled and the tenancy will continue.

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: January 10, 2017

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Residential Tenancy Branch