



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Manufactured Home Park Tenancy Act* for an Order of Possession for cause pursuant to section 48, as well as authorization to recover his filing fee for this application from the tenant pursuant to section 65.

The tenant did not attend this hearing, although I waited until 11:15 a.m. in order to enable him to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

Rule 10.1 of the Rules of Procedure provides as follows:

**10.1 Commencement of the hearing** The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

The landlord testified that he served the tenant with a copy of his dispute resolution hearing package ('Application') by way of registered mail on December 20, 2016. The landlord provided a copy of the receipt and tracking number after the hearing. In accordance with sections 82(2) and 83 of the *Act*, I find that the tenant had been deemed served with the Application on December 25, 2016, the fifth day after mailing.

The landlord testified that he had served the 1 Month Notice to End Tenancy for Cause ('1 Month Notice') to the tenant by posting the notice on the door of the rental home on November 29, 2016, with an effective date of January 1, 2017. The landlord entered into written evidence a copy of that Notice as well as his Proof of Service confirming that the Notice was served at 9:00 a.m. on November 29, 2016. In accordance with sections 81 and 83 of the *Act*, the 1 Month Notice is deemed served on December 2, 2016, three days after its posting. The landlord had also provided, as part of his evidence package, a copy of a 10 Day Notice to End Tenancy ('10 day Notice'), which was issued on January 5, 2017, but as no application was made regarding this 10 Day Notice, it will not be considered as part of this application.

Issues(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

This month-to-month tenancy began in August 2016, with monthly rent set at \$220.00 per month, payable on the first of each month. The landlord does not currently hold a security deposit.

The landlord submitted the notice to end tenancy providing two grounds:

1. the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord, and
2. the tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

The landlord provided undisputed testimony during the hearing that the police had attended the manufactured home at least three times. The landlord believed that the tenant was dealing drugs, and he believed that a warrant was outstanding for his arrest. The landlord testified that the tenant was currently before the court, but could not provide any specific details. He testified that other residents in the manufactured home park were afraid of the tenant, and that the woman who currently collects the rent had expressed to the landlord that “he is a criminal”, and that “he is a scary person”.

Analysis

Section 40 of the *Manufactured Home Park Tenancy Act* allows the landlord to end a tenancy for cause:

**Landlord's notice: cause**

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

(c) the tenant or a person permitted in the manufactured home park by the tenant has

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the manufactured home park,
- (d) the tenant or a person permitted in the manufactured home park by the tenant has engaged in illegal activity that
  - (ii) 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 the landlord.

Based on undisputed testimony of the landlord, I find that the tenant was served with the Notice to End Tenancy, and I find that the 1 Month Notice does comply with the form and content provisions of section 45 of the *Act*, which states that the Notice must: be in writing and must: (a) be signed and dated by the landlord or tenant giving the notice, (b) give the address of the manufactured home site, (c) state the effective date of the notice, (d) except for a notice under section 38 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and (e) when given by a landlord, be in the approved form.

Section 40 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. I find that the tenant has failed to file his application for dispute resolution within the ten days of service granted under section 40(4) of the *Act*. Accordingly, I find that the tenant is conclusively presumed under section 40(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 1 Month Notice, January 1, 2017.

In this case, this required the tenant and anyone on the premises to vacate the premises by January 1, 2017. As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession against the tenant, pursuant to section 48 of the *Act*.

As the landlord was successful in their application, I allow the landlord to recover the \$100.00 filing fee from the tenant.

### Conclusion

I find that the landlord's 1 Month Notice is valid and effective as of January 1, 2017. I grant an Order of Possession to the landlord effective two **days after service of this**

**Order** on the tenant. Should the tenant 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 \$100.00 Monetary Order in favour of the landlord which allows the landlord to recover his filing fee for this application. The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: February 22, 2017

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Residential Tenancy Branch