



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding STONECLIFF PROPERTIES LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDC FF

### Introduction

This hearing dealt with the tenant's application pursuant to the *Manufactured Home Park Tenancy Act* ("the Act") for a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 60 and authorization to recover the filing fee for this application from the landlord pursuant to section 65.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, and to make submissions. The landlord confirmed receipt of the tenant's Application for Dispute Resolution as well as the tenant's evidence package. The tenant confirmed receipt of the landlord's evidence package.

### Issue(s) to be Decided

Is the tenant entitled to a monetary order based on the landlord's failure to act in accordance with the 12 Month Notice to End Tenancy issued to this tenant?  
Is the tenant entitled to recover the filing fee for this application?

### Background and Evidence

This tenancy began 28 years ago. The current monthly rental amount for this site within a manufactured home park is \$215.40 payable on the first of each month. Both parties testified that there was no written agreement with respect to this manufactured home park tenancy. On August 31, 2014, the landlord issued a 12 Month Notice to End Tenancy for Conversion of a Manufactured Home Park ("12 Month Notice"). The tenant vacated the rental unit on August 28, 2015. The tenant applied February 17, 2016 for a monetary order in the amount of \$3877.20 as well as recovery of her filing fee for this application.

The 12 Month Notice was issued by the landlord on the basis that, “[the] landlord has all necessary permits and approvals required by law and intends in good faith, to convert all or a significant part of the manufactured home park to a non-residential use or a residential use other than a manufactured home park.” The 12 Month Notice had an effective date of August 31, 2015. The tenant provided undisputed testimony that she was informed the manufactured home park was to be converted into greenspace. At this hearing, the landlord confirmed that it was her intention to create greenspace from the manufactured home park but that, as of yet, she had not done so.

The tenant provided undisputed testimony that, after the issuance of the 12 Month Notice and after she vacated the manufactured home park site in accordance with the 12 Month Notice, the landlord did not pay her 12 months’ rent as required by section 42 of the Act.

In addition to requesting the 12 months’ rent equivalent in compensation as provided in section 42 of the Act, the tenant also sought to recover an additional 6 months’ rent equivalent as she argued that the landlord has, as of the date of this hearing, not only failed to pay her compensation but that the landlord has failed to take steps in a reasonable period of time to act in accordance with the stated purpose of the landlord’s

The landlord did not dispute the tenant’s testimony regarding the issuance of a 12 Month Notice or failing to pay in accordance with the 12 Month Notice. However, the landlord did claim to be ignorant of the compensation provision as well as other provisions of the Act. The landlord claimed that she had “good faith” or good intentions to convert the manufactured home park but that it had been more difficult than expected and, as of the date of this hearing, the landlord has failed to meet that conversion goal.

### Analysis

Pursuant to section 42 of the Act, the landlord may end a tenancy if the landlord, in good faith, intends to use the property for his own purposes,

- 42** (1) Subject to section 44 [*tenant's compensation: section 42 notice*], a landlord may end a tenancy agreement by giving notice to end the tenancy agreement if the landlord has all the necessary permits and approvals required by law, and intends in good faith, to convert all or a significant part of the manufactured home park to a non-residential use or a residential use other than a manufactured home park.

(2) A notice to end a tenancy under this section must end the tenancy effective on a date that

(a) is not earlier than 12 months after the date the notice is received and is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement...

Furthermore, pursuant to section 44(1)

**44** (1) A landlord who gives a tenant notice to end a tenancy under section 42 [*landlord's use of property*] must pay the tenant, on or before the effective date of the notice, an amount that is equivalent to 12 months' rent payable under the tenancy agreement.

I find that the tenant has proven that she has not been compensated in accordance with the 12 Month Notice. There was little dispute at this hearing that the tenant had not been compensated by the landlord in accordance with the 12 Month Notice. As the landlord has not met the obligations of the 12 Month Notice, I find that the landlord must compensate the tenant with an amount equivalent to twelve months' rent totalling \$2584.80.

Pursuant to section 44(2), a landlord may also be required to compensate a tenant if...

**44** (2) In addition to the amount payable under subsection (1), if steps have not been taken to accomplish the stated purpose for ending the tenancy under section 42 within a reasonable period after the effective date of the notice, the landlord must pay the tenant an amount that is the equivalent of 6 times the monthly rent payable under the tenancy agreement.

In this application, the burden falls to the applicant/tenant to provide evidence to show that the landlord has failed to act in accordance with the stated objectives provided on the 2 Month Notice to End Tenancy. However, during this hearing, the landlord acknowledged that she has not yet converted the manufactured home park to greenspace and therefore has not acted in accordance with the stated purpose on the 12 Month Notice. Therefore, I find that the landlord must compensate the tenants six months' rent totalling \$1292.40.

The tenant also sought to recover the filing fee in this application. As she has been successful in her application and this application would have been unnecessary but for

the landlord's failure to know and meet her obligations under the Act, the tenant is entitled to recover \$100.00 from the landlord for the filing fee for this application

Based on the evidence before me, I find that the tenant is entitled to a monetary award as follows,

Item	Amount
Monetary Award for compensation on the issuance of a 2 Month Notice to End Tenancy	\$2584.80
Monetary Award for Landlords' Failure to Comply with s. 44 of the Act	1292.40
Recovery of Filing Fee for this Application	100.00
<b>Total Monetary Order to Tenant</b>	<b>\$3977.20</b>

### Conclusion

I grant the tenant a monetary order in the amount of \$3977.20 against the landlord.

The tenant is provided with this Order in the above terms and the landlord must be served with this Order as soon as possible. Should the landlord 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: August 1, 2017

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Residential Tenancy Branch