



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PROSPERO INTERNATIONAL REALTY INC.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC

### Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution wherein the Landlord requested an Order of Possession based on a 1 Month Notice to End Tenancy for Cause issued on May 9, 2017 (the "Notice").

The hearing was conducted by teleconference on October 23, 2017. Only the Landlord's on site manager, J.W. called into the hearing. He gave affirmed testimony and was provided the opportunity to present the Landlord's evidence orally and in written and documentary form, and to make submissions to me.

J.W. testified that he personally served the Tenant, M.W., with the Notice of Hearing and the Application on August 4, 2017; he further confirmed that the hearing packages were also sent out by registered mail to both Tenants on August 4, 2017. A copy of the registered mail tracking numbers is provided on the unpublished cover page of this my Decision.

*Residential Tenancy Policy Guideline 12—Service Provisions* provides that service cannot be avoided by refusing or failing to retrieve registered mail:

Where a document is served by registered mail, the refusal of the party to either accept or pick up the registered mail, does not override the deemed service provision. Where the registered mail is refused or deliberately not picked up, service continues to be deemed to have occurred on the fifth day after mailing.

Pursuant to section 90 of the *Residential Tenancy Act* documents served this way are deemed served five days later; accordingly, I find the Tenants were duly served as of August 9, 2017 and I proceeded with the hearing in their absence.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, not all details of the Landlord's submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue to be Decided

1. Is the Landlord entitled to an Order of Possession?

### Background and Evidence

Introduced in evidence as a copy of the Manufactured Home Site Tenancy Agreement confirming that this tenancy began May 28, 2004.

Also introduced in evidence was a copy of the Notice indicating the reasons as follows:

- the Tenant or a person permitted on the residential property by the Tenant has
  - significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
  - seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
- Breach of a material term that was not corrected within a reasonable time after written notice to do so;

Documentary evidence confirms that the Tenants were served the Notice on May 9, 2017. A copy of the Proof of Service was filed in evidence.

The Notice informs the Tenant that they had ten days from the date of service to dispute the Notice by filing an Application for Dispute Resolution. The Landlord's representative confirmed the Tenants did not apply for dispute resolution within 10 days of receipt of the Notice.

The Landlord's representative provided undisputed testimony as to the reasons for issuing the Notice. Further, the Landlord submitted photos of the manufactured home site, warning letters which had been sent to the Tenants as well as letters from other residents of the park who complained regarding the condition of the subject manufactured home site. All of the evidence submitted by the Landlord supported the reasons set out in the Notice.

### Analysis

Based on the documentary evidence, the undisputed testimony of the Landlord's representative, and on the balance of probabilities, I find the following.

The Tenants did not apply to dispute the Notice and therefore, pursuant to section 40(5) of the *Manufactured Home Park Tenancy Act*, are conclusively presumed, to accept the end of the tenancy and must vacate the rental unit.

The evidence submitted by the Landlord confirms that the condition of the subject manufactured home site is a long standing issue which has been brought to the Tenants' attention on numerous occasions. The warning letters sent to the Tenants also confirms that the Tenants have been warned that their tenancy is in jeopardy, and yet, despite these clear warnings, the Tenants have not corrected the situation. Further, I accept that the condition of the subject manufactured home site is significantly disturbing to other occupants of the manufactured home park who feel that it is an "eyesore" and creates health risks and fire hazards due to the accumulation of items and garbage as well as lack of general maintenance.

For these reasons, and pursuant to section 48 of the *Act*, I find that the Landlord is entitled to the requested Order of Possession which will be effective at **1:00 p.m.**, two days after service. This Order must be served on the Tenants and may be filed in the Supreme Court and enforced as an Order of that Court.

### Conclusion

The Landlord is entitled to an Order of Possession.

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: October 23, 2017

---

Residential Tenancy Branch