



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MT, DRI, CNC, OPT, RR

### Introduction

This hearing dealt with the tenant's application pursuant to the *Manufactured Home Park Tenancy Act* (the *Act*) for:

- more time to make an application to cancel the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 59;
- dispute a rent increase pursuant to section 36;
- cancellation of the landlord's 1 Month Notice pursuant to section 40;
- an order of possession for the tenant pursuant to section 47; and
- an order to reduce rent for repairs and services not provided by the landlord pursuant to section 58.

Both parties were represented at the hearing and given full opportunity to be heard, to present their sworn testimony, to make submissions, and to call witnesses. The tenant represented himself with assistance. One of the named landlords represented herself with assistance. The parties testified that the other named landlord is a manager for the manufactured home park.

As both parties were in attendance I confirmed service. The tenant confirmed that he had been personally served with the landlord's 1 Month Notice on July 14, 2017. The tenant testified that he filed his application for dispute resolution and served it on the landlords on July 25, 2017. The landlord confirmed receipt of the tenant's materials. In accordance with sections 88 and 89 of the *Act*, I find that the parties were duly served with copies of the landlord's 1 Month Notice, the tenant's application and evidence.

### Issue(s) to be Decided

Is the tenant entitled to more time to file the application to dispute the landlord's 1 Month Notice? Should the 1 Month Notice be cancelled? If not is the landlord entitled to an Order of Possession?

Is the tenant entitled to reduce the rent for repairs and services not provided? Is the tenant entitled to an Order of Possession?

### Background and Evidence

There is little documentary evidence regarding this tenancy. The parties were unable to agree on when this tenancy began, the amount of the monthly rent or details of the agreement between them.

The landlord is the tenant's mother. She testified that the tenant is responsible for paying the monthly site fee but has not been doing so. The tenant disputed that any rent is payable under their agreement.

The tenant confirmed that he had been personally served with the landlord's 1 Month Notice on July 14, 2017. The tenant testified that he filed his application for dispute resolution on July 25, 2017. The tenant said that he was preoccupied with various other commitments including other claims he was pursuing and could not file his application earlier.

### Analysis

Section 59 of the *Act* allows a time limit established in the Act to be extended in *exceptional circumstances*. Policy Guideline 36 goes on to say that "exceptional implies that the reason for failing to do something at the time required is very strong and compelling." Furthermore, the party making the application for additional time bears the onus of putting forward persuasive evidence to support the truthfulness of the reason cited.

Section 40(4) of the Act provides that a tenant may dispute a 1 Month Notice within 10 days after the date the tenant receives the notice. Section 40(5) provides that if a tenant does not make an application in accordance with subsection (4) the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the notice.

In the present application the parties confirmed that the landlord's 1 Month Notice was served on the tenant personally on July 14, 2017. The tenant filed his application for dispute resolution on July 25, 2017, outside of the 10 days provided by the *Act*. The tenant testified that he was preoccupied with other matters and could not file his application within the timeframe granted under the *Act*. When asked why he did not file earlier the tenant answered, "I don't know, I just had a lot going on." I am unable to find that there is sufficient evidence to conclude that there were exceptional circumstances to allow an extension of a time limit established by the *Act*. I find that the tenant has failed to file an application for dispute resolution within the 10 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 corrected effective date of the 1 Month Notice, August 31, 2017.

Section 48(1) of the *Act* reads as follows:

**48** (1) *If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the manufactured home site if*

- (a) the landlord's notice to end tenancy complies with section 45[form and content of notice to end tenancy], and*
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.*

I find that the landlord's 1 Month Notice meets the form and content requirements of section 45 of the *Act* as it is in the approved form and clearly identifies the parties, the address of the manufactured home site, the effective date of the notice and the reason for ending the tenancy. Therefore, I find that the landlord is entitled to an Order of Possession pursuant to section 48 of the *Act*. As the effective date of the 1 Month Notice has passed, I issue a 2 day Order of Possession.

Conclusion

The tenant's application is dismissed.

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenant or anyone 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.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: October 4, 2017

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Residential Tenancy Branch