



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 0545094 B.C. LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes CNL

### Introduction

On April 24, 2018, an order was made to join the tenants' respective Applications for Dispute Resolution as they are related to a notice to end tenancy.

This hearing dealt with three Applications for Dispute Resolution by the tenants filed under the the *Manufactured Home Park Tenancy Act*, (the "Act"). The tenants seek to cancel the 12 Month Notice to End Tenancy for Conversion of Manufactured Home Park (the "Notice") issued on April 12, 2018.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

In a case where the tenants have applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proving sufficient evidence to terminate the tenancy for the reason given on the Notice.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### Issues to be Decided

Should the Notice be cancelled?

### Background and Evidence

The parties agreed that the Notice was served on the tenants indicating that the tenants are required to vacate the rental sites on April 30, 2019.

The reason stated in the Notice was 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 landlord's agent testified that they are closing the park and converting it raw land, which does not require a permit. The agent stated that the park will be closed in two phases, as the associated costs of closing the park are high.

The landlord's agent testified that the operating cost of the park far exceeds the rents that they collect and they are averaging a yearly loss of \$20,000 to \$24,000.00, which they can no longer continue. Filed in evidence are rents and expense reports for the past three years.

The landlord's agent testified that they applied for an additional rent increase in 2012; however, that was not granted. The agent stated that they have applied the allowable rent increases since 2012; however, the manufacture home park continues to operate at a loss.

The landlord's agent testified that manufactured home park is approximately 45 years old and consists of 15 sites. Six of those sites are already vacant. The agent stated the property is considered non-conforming and as the homes are removed or something happens, such as a fire, they are not allowed to be replaced.

The landlord's agent testified that out of the remaining nine sites, their associated companies have purchased three of the manufactured homes.

The landlord's agent testified that the upper road will be the first to close which consists of sites 3, 4, 5, 6, 7, and 9. The agent stated site 4 is empty, site 5 the manufactured home is owned by their associated company and site 6 they are currently working with the tenant to either purchase their home or to help move the home to another park. That just leaves sites 3, 7 and 9, that are subject to the Notice that are in the first phase for closure.

The landlord's agent testified that they have offered the tenants compensation over and above what the Act allows, which is compensation equal to 24 months of rent; rather than the 12 months they are entitled to under this Notice. The agent stated that they are still willing to offer that package if they are successful with their application.

The tenants testified that the landlord knew when they purchased the property in 2011 that the manufactured home park was losing money, which should not be a deciding factor when closing the park. The tenants stated that the landlord bought the property to redevelop.

The tenants testified that they believe the landlord has personal issues against them as they have been referred to as hillbillies and they are being singled out. The tenants stated that if the park is to be closed it should be done in one phase and everyone should be served with eviction notices.

Filed in evidence are text messages. It should be noted that the reference made to hillbillies was then followed by a text stating they were not referring to them as hillbillies that the autocorrect change the word they were typing.

The tenants testified that the closure of the park will be a financial hardship because their rent is low and they will not be able to afford the rent elsewhere.

The tenants testified that the landlord has not offered them any buyout of their home and the compensation that the landlord offered was only approximately 10% of the value of their homes.

The tenant J-A of site #3, testified that the landlord tried to evict them in 2012, for failure to pay rent. The tenant stated the landlord was not successful with the eviction. J-P filed a statement which I have read. The statement for the most part refers to the stress of receiving the Notice, and other issues that have occurred during the tenancy, such as snow removal.

File in evidence are statements from site #7 and #9 which have also been read.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

#### **Landlord's notice: landlord's use of property**

**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

(b) 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.

(3) A notice under this section must comply with section 45 *[form and content of notice to end tenancy]*.

...

In this case, the parties agreed that the manufacture home park has been losing money each year, as the rents collected for the nine sites does not cover the yearly operating cost.

The landlord in 2012 made an application for an additional rent increase; however, that was denied because the landlord failed to provide sufficient evidence. Yearly rent increases were given for the sites, except for one site and the rent continues to not cover operating costs

I accept the evidence of the landlord's agent that the landlord can no longer continue to operate the manufacture home park at a loss. While the landlord is closing the park in two phases, I find that not unreasonable and that is a business choice the landlord is entitled to make without interference.

While the landlord has no permits, I accept the evidence of the landlord's agent that no permits are required when simply leaving the property vacant. This would reduce the operating cost of the park and is a business choice.

While I accept the closure of this portion of the park is stressful to the tenants and will be a hardship for them, the Act does not allow me to consider their personal circumstance.

Based on the above, I find the landlord has proven the Notices, issued on April 12, 2018. I find the tenancies will end on April 30, 2019, which is the effective date in the Notice. Therefore, I dismiss the tenant's respective applications to cancel the Notice, without leave to reapply.

Since I have dismissed the tenants' respective applications, I find that the landlord is entitled to an order of possession for the sites effective **April 30, 2019, at 1:00 P.M.** This order must be served on the tenants and may be filed in the Supreme Court.

Further, at the hearing the landlord agreed that the tenant's will be compensated the amount that equals 24 months of rent; rather than the 12 months they are entitled to in the Notice.

Therefore, I Order the landlord that they must pay the tenants the sum equal to 24 months of rents on or before the effective date of the Notice.

Conclusion

The tenants' respective applications to cancel the Notice, issued on April 12, 2018, are dismissed. The landlord is granted 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: July 9, 2018

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Residential Tenancy Branch