



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNL-4M, OLC, FFT

### Introduction

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

- cancellation of the landlord's 4 Month Notice to End Tenancy for Landlord's Use of Property (the 4 Month Notice) pursuant to section 40;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 55; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 65.

The landlord did not attend this hearing, although I left the teleconference hearing connection open until 11:15 a.m. in order to enable the landlord to call into this teleconference hearing scheduled for 11:00 a.m. The tenant attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the tenant and I were the only ones who had called into this teleconference.

As the tenant's written evidence confirmed that she received the landlord's 4 Month Notice on January 26, 2019, I find that the tenant was duly served with the 4 Month Notice in accordance with section 81 of the *Act*. The tenant gave sworn testimony that they handed the landlord a copy of their dispute resolution hearing package and written evidence on March 1, 2019. Based on this undisputed sworn testimony, I find that the landlord was served with these documents on March 1, 2019, in accordance with sections 81 and 82 of the *Act*.

### Issues(s) to be Decided

Does this tenancy fall within the jurisdiction of the *Residential Tenancy Act* or the *Manufactured Home Park Tenancy Act*? Did the landlord use the correct authorized RTB Form in issuing the 4 Month Notice on RTB Form RTB-29? Should the landlord's 4 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession? Should any orders be issued against the landlord? Is the tenant entitled to recover the filing fee for this application from the landlord?

### Background and Evidence

There is undisputed sworn testimony and written evidence that the tenant owns the manufactured home on this lot and pays a manufactured home pad rental fee of \$447.00 for the site in this manufactured home park.

The landlord's 4 Month Notice of January 26, 2019, entered into written evidence by the tenant, identified the following reason for seeking an end to this tenancy:

*I am ending your tenancy because I am going to:*

- *convert the rental unit to a non-residential use.*

The tenant maintained that the landlord is attempting to convert this pad rental site to use as a site for RV travel trailers.

The tenant's application asserted that the landlord had used an incorrect form, Form RTB-29 to attempt to end this tenancy pursuant to section 49(6) of the *Residential Tenancy Act*. The tenant claimed that this tenancy is a pad rental for a manufactured home park site and falls within the jurisdiction of the *Manufactured Home Park Tenancy Act*.

### Analysis

In the absence of any attendance at this hearing by the landlord or any written submissions from the landlord, and after reviewing the tenant's undisputed sworn testimony and written evidence, I dismiss the landlord's 4 Month Notice. In so doing, I confirm the tenant's assertion that this tenancy falls under the jurisdiction of the *Manufactured Home Park Tenancy Act*, and not the *Residential Tenancy Act*, and as such, the landlord's 4 Month Notice was issued on an incorrect RTB Form, RTB-29. I

also note that there is no legislative provision within the *Manufactured Home Park Tenancy Act* that enables a landlord to issue a 4 Month Notice to a tenant who has a manufactured home park site within a manufactured home park.

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

### Conclusion

I allow the tenant's application and cancel the landlord's 4 Month Notice, which is set aside and has no continuing force nor effect. This manufactured home park pad rental remains in force until ended in accordance with the *Act*.

I allow the tenant to recover their \$100.00 filing fee for this application from the landlord. To implement this part of the decision, I order the tenant to withhold a \$100.00 payment from the landlord for a future monthly payment of the pad rental for this tenancy.

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: April 05, 2019

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Residential Tenancy Branch