



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes            CNC, OLC

### Introduction

This hearing was set to hear a tenant's application to cancel a *1 Month Notice to End tenancy for Cause* and orders for the landlord to comply with the Act, regulations or tenancy agreement. Both parties appeared or were represented at the hearing and had the opportunity to be make relevant submissions and to respond to the submissions of the other party pursuant to the Rules of Procedure.

The style of cause was amended to correctly reflect the landlord's name.

I also amended the application to indicate the application was being made under the *Manufactured Home Park Tenancy Act* after confirming with the parties that the tenant rents a site from the landlord, but owns the manufactured home on the site, and that the landlord considers the rental site to fall under the *Manufactured Home Park Tenancy Act*. From this point forward, reference to "the Act" means the *Manufactured Home Park Tenancy Act*.

I explored service of hearing documents upon each other and the Residential Tenancy Branch. The tenant testified that he served his hearing documents and evidence to the landlord's husband three times, in person, with the last time being June 4, 2019. The landlord's husband confirmed receiving documents from the tenant on two occasions with the last time being May 10, 2019 and that package was found on the ground and was not given in person. Having been satisfied the landlord received the first two packages from the tenant I deemed the landlord sufficiently served with those two packages and I admitted those documents into evidence.

The landlord testified that the landlord's evidence and submissions were served upon the tenant in person on two occasions: June 7 and June 13, 2019 by the landlord's husband. The tenant confirmed he received two packages from the landlord's husband. Although the landlord had served documents very close to the hearing date, with the last package being received after the time limit permitted under the Rules of Procedure, the tenant was of the position the documents served on June 13, 2019 were beneficial to him and he did not object to their admittance. I also decided to admit the June 13, 2019 submission into evidence due to the tenant's conduct at the hearing. The tenant was extremely difficult to examine and cross examine as he was

unresponsive to the questions asked of him, evasive and more times than not attempted to introduce irrelevant evidence. Due the tenant's conduct, I stopped the cross examination by the landlord's lawyer; however, considering the landlord's legal counsel was unable to finish cross examining the tenant I admitted the landlord's late served evidence and considered it in making this decision.

On another note, the tenant stated that the landlord had served him with another *1 Month Notice to End Tenancy for Cause* on June 13, 2019. The landlord denied that to be accurate and stated they have only served him with one 1 Month Notice which is the subject of this proceeding. The tenant appeared adamant that he received a second 1 Month Notice even though when he described the document to me it sounded like the evidence the landlord had served on June 13, 2019. Since the landlord was of the position that a second 1 Month Notice had not been issued and I did not have a copy of a second 1 Month Notice before me, I did not amend this Application to deal with a second 1 Month Notice. Rather, I informed the tenant that if he a second 1 Month Notice that he may file another Application for Dispute Resolution to dispute it.

As far as the tenant's request for orders for compliance against the landlord, the tenant did not identify any particular breach of the Act or specify any particular remedy on his application that I may be able to provide under the Act. Rather, the tenant merely made an assertion that the landlord lets "anyone" move into the manufactured home park and "the good people do not have a chance." Therefore, I find this request for compliance was not sufficiently set out and I do not consider it further.

#### Issue(s) to be Decided

Should the 1 Month Notice served on April 26, 2019 be upheld or cancelled?

#### Background and Evidence

The tenancy started in 2014 or 2015 and the tenant is required to pay rent on the first day of every month.

On April 26, 2019 the landlord's husband served the tenant with the subject *1 Month Notice to End Tenancy for Cause* ("1 Month Notice") with an effective date of May 31, 2019. The second page of the 1 Month Notice indicates the reason for ending the tenancy is:

- The tenant or a person permitted on the property by the tenant has:
  - Significantly interfered with or unreasonably disturbed another occupant or the landlord.

In the Details of Cause section of the 1 Month Notice the landlord wrote:

- Disturbing the enjoyment of other tenants and landlord.
- Attachments 15 pages: photos + statements by other tenants + letters to [name of tenant omitted for privacy reasons].

The parties confirmed that the 1 Month Notice served to the tenant was accompanied by 15 pages.

The tenant filed to dispute the 1 Month Notice within the time limit for doing so.

During the hearing, the landlord was asked to provide the primary reasons the landlord seeks to end the tenancy. In response, the landlord described the following:

1. The tenant came knocking on the landlord's door many times after midnight or late at night to complain of neighbors bothering him. The landlord issued a letter to the tenant in December 2017 advising the tenant to cease knocking on the landlord's door so late at night. The landlord could not recall the last time the tenant came knocking on the landlord's door outside of business hours. The landlord described the landlord's office hours as being open until 10:00 p.m. and that if tenants have a complaint to make after 10:00 p.m. they may call the landlord on the telephone or contact the police.
2. The tenant was knocking on the door of the tenant in site 12, referred to as TM in this decision, late at night and was yelling and screaming about other tenants that were bothering him. TM has complained to the landlord about the tenant's conduct and that she needs it to stop especially since she has children and has to get up early in the morning to go to work. The landlord described the complaint as being made by TM between April 21 and 23, 2019. In response, the landlord issued the 1 Month Notice to the tenant but the landlord did not approach the tenant about his conduct before issuing the 1 Month Notice.
3. The tenant in site 39, referred to as MB in this decision, resides across the road from the tenant and has complained about being disturbed by the tenant as well. MB complained to the landlord that the tenant has yelled at him, made vulgar gestures, and stated that he knows big guys, insinuating a physical threat.
4. The tenant's behaviour overall is consistent with always looking for trouble, including abrasive and annoying conduct that includes yelling and screaming, asking other tenants for money and making false accusations against other tenants and the landlord.

In response to the allegations against him, the tenant provided the following responses:

1. The tenant stopped knocking on the landlord's door after office hours after he received the letter from the landlord in December 2017.
2. The tenant did knock on TM's door on two occasions in April 2019 to ask to use her phone. The tenant stated that he does not have a phone and he was looking for assistance for the tenant(s) in site 14. After TM answered the door she shut her door on him. The tenant stated that he had considered TM to be his friend but now he understands his behaviour was unwelcomed by her and he has not done it since he

received the 1 Month Notice. The tenant also stated that he is willing to comply with any order I may issue prohibiting him from knocking on his neighbour's doors and stated that if the tenant needs to use a phone or seek assistance he will go to the nearby store.

3. Tenant MB and his friends have conducted themselves in an insulting and derogatory way toward him by calling him derogatory slang words for a gay man. The tenant stated he has called the police several times concerning the "hate crimes" MB has committed against him. Since July 2018, and in accordance with the police suggestion, the tenant has called the police rather than engage with MB. The tenant denied threatening MB.

Both parties provided a number of documents, including written statements purportedly written by other tenants and the mayor of the community. The landlord's lawyer was of the position that one letter submitted by the tenant was likely written by the tenant himself or was a forgery and provided another sample letter bearing that person's signature in an effort to support the allegation of forgery or fraud. The landlord's legal counsel also submitted that the letter written by the mayor of the community should be given the greatest amount of weight in making this decision. In contrast, the landlord's lawyer suggested that most of the tenant's documents and submissions were irrelevant to the issue at hand.

I did not hear further arguments from the tenant as the tenant spent most of the hearing time attempting to introduce irrelevant evidence despite my numerous instructions to refrain from doing so. I informed the tenant that the primary issue for me to determine is whether his conduct has been unreasonably disturbing to other tenants or the landlord. The tenant spent most of the hearing time deflecting from questions about his behaviour and wanted to describe the conduct of others which were, as I informed the tenant, not relevant to the matter before me.

### Analysis

Where a notice to end tenancy comes under dispute, the landlord bears the burden to prove the tenancy should end for the reason(s) indicated on the Notice. The burden of proof is based on the balance of probabilities.

Under section 22 of the Act, a tenant is entitled to quiet enjoyment, including, but not limited to the rights to:

- reasonable privacy;
- freedom from unreasonable disturbance;
- exclusive possession, subject to the landlord's right of entry under the Act; and
- use of common areas for reasonable and lawful purposes, free from significant interference.

A landlord is obligated to ensure that the tenant's quiet enjoyment is protected. Where a landlord has multiple rental sites on a property and becomes aware that a tenant is significantly interfering with or unreasonably disturbing another tenant on the property, the landlord is expected to take action to stop the offending behavior. That may include issuing a warning to

the offending tenant or issuing a Notice to End Tenancy, depending on the circumstances. As such, section 40(1)(c)(i) of the Act permits a landlord to end a tenancy where a tenant or a tenant's guest has engaged in activity that has breached another tenant's right to quiet enjoyment. A landlord is also entitled to end the tenancy if the landlord has been unreasonably disturbed or significantly interfered with use of the property by a tenant since section 40(1)(c)(i) provides for ending a tenancy in such circumstances.

The landlord in this case has issued a Notice to End Tenancy to the tenant under section 40(1)(c)(i) of the Act in an effort to stop the tenant from unreasonably disturbing or significantly interfering with other tenants of the park and the landlord. As such, it is before me to determine whether the tenant has unreasonably disturbed or significantly interfered with other tenants or the landlord and I proceed to analyze the submissions of the parties with respect to the tenant's conduct.

The tenant acknowledged knocking on TM's door multiple times in April 2019 that were late at night or later in the evening but claims to have stopped doing so after receiving the 1 Month Notice and the attached pages. The tenant also acknowledged that he had knocked on the landlord's door late at night but that the last time was quite some time ago, and not since December 2017. In both instances, I note that the tenant claims to have stopped the offending behavior once he was given written notice that the behavior must stop. Based on the evidence before me, I find the tenant's position to be more likely than not. To illustrate: the landlord issued a letter to the tenant in December 2017 to stop knocking on the landlord's door late at night and when I asked the landlord to describe the last time the tenant knocked on the landlord's door late at night the landlord could not recall which leads me to find it likely that it was quite some time ago. Also, I did not hear any further submissions from the landlord, or evidence from TM, that the tenant has knocked on TM's door since he was served with the 1 Month Notice and the letters of complaint that accompanied it. As such, it appears the tenant is capable and willing to comply with written instruction or warning to cease certain behavior and I question whether a warning letter would have been more appropriate in the circumstances.

With respect to the conflict with MB, I find the submissions of both parties point to a conflict between the tenant and MB and I have little doubt there has been name calling and rude gestures made between the two tenants at times. However, the tenant claims to have stopped such behavior based on suggestions of the police and that he now calls the police instead. The letter purportedly written by MB appears to support the tenant's statement that he calls the police about MB. The other more serious allegations by MB of physical harm were denied by the tenant and I find the opposed written statement of MB, which does not include specific dates, and was not otherwise corroborated or supported by testimony MB and I find those statements not overly persuasive that this tenancy should end.

Notwithstanding the above, I do accept that the tenant's actions or conduct in the park has been seen to be annoying and abrasive at times, as I found his behavior during the hearing to be the

same. I also noted that the tenant had difficulty or an unwillingness to consider how his actions impact other tenants or the landlord.

When I look at the landlord's other evidence, including the written statements of other tenants and the mayor, I note that they were written approximately a year or so ago. The landlord's lawyer suggested I give the most weight to the letter written by the mayor. That mayor's letter is actually an email written in May 2018 and describes the tenant as having huge mood swings and a person who has a tendency to complaint about or blame others. While I appreciate these documents may demonstrate a pattern of behavior that is disturbing, annoying or lacking courtesy to others, it would appear to me that the landlord decided to issue the 1 Month Notice upon receiving the complaint from TM and I give the most consideration to the complaints of TM.

Upon reading the complaints of TM, it appears that she wants the tenant to stop knocking on her door late at night, to stop asking to use her phone, and to stop writing her letters or notes. Given the tenant's willingness to comply with an order of mine to stop disturbing TM, I am of the view that an order to the tenant is a reasonable remedy to protect the quiet enjoyment of TM. However, I also recognize that the landlord has had to deal with many issues involving this tenant and his negative interactions with other tenants in the park and I find it unreasonable to expect that the landlord would have to issue or obtain a separate warning to the tenant for each tenant the landlord has. Therefore, I find it appropriate to issue a final warning to the tenant that is sufficiently broad that it applies to all other tenants in the park.

In consideration of all of the above, I cancel the 1 Month Notice served on April 26, 2019 and the tenancy continues at this time; however, I issue orders to the tenant, as set out below, and the landlord is at liberty to issue another 1 Month Notice to the tenant if the tenant fails to comply with my orders. Section 40(1)(k) of the Act permits a landlord to end a tenancy where a tenant has failed to comply with an order of the Director. As a delegated authority of the Director, the following orders are considered orders of the Director.

**I ORDER THE TENANT to refrain from knocking on TM's door unless expressly invited over by TM; to refrain from asking to use TM's phone; and, to stop giving TM letters or notes effectively immediately upon receipt of this decision.**

**I ORDER THE TENANT to refrain from unreasonably disturbing any occupant or tenant of the property, including the landlord, effectively immediately upon receipt of this decision. This includes refraining from knocking on doors of the landlord outside of office hours; knocking on the doors of other tenants unless expressly invited by that tenant; name-calling, making rude gestures, yelling, shouting, screaming or making any other unreasonably loud noise; making threats of physical harm to person or property; asking other tenants or occupants or the landlord to use their phone or for money while in the park.**

The landlord has also submitted an image of the tenant going behind the counter in the landlord's office. The landlord did not raise this as an issue during the hearing and I am uncertain as to when it occurred; however, I can find no legitimate reason for the tenant to do so. As such, I provide another order to the tenant, as follows:

**I ORDER THE TENANT to not go behind the counter in the landlord's office or elsewhere admittance is not permitted by the tenant effectively immediately upon receipt of this decision.**

In closing, I am optimistic that issuing written orders to the tenant and providing for a clear consequence should the tenant violate my orders will cause the tenant's disturbing behaviour to cease. While it appears the tenant is not overly satisfied with his experience of living in the park, the tenant has sought cancellation of the 1 Month Notice so that his tenancy may continue and that has been granted. However, I strongly caution the tenant that if he wants his tenancy to successfully continue he must comply with my orders and recognize that his conduct is the reason for issuance of the 1 Month Notice and that his future conduct may result in issuance of another 1 Month Notice by the landlord. As I informed the tenant during the hearing, while he may not be able to control the actions of others, he has the power and responsibility to control his actions.

#### Conclusion

The 1 Month Notice served on April 26, 2019 is cancelled; however, I have issued ORDERS to the TENANT with this decision. Failure to comply with my orders will entitle the landlord to issue another 1 Month Notice and include the reason for ending the tenancy as failure to comply with the order of the Director, as provided under section 40(1)(k) of the Act

The tenant's request for orders for compliance against the landlord was not sufficiently set out in the application and was not considered further.

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: June 20, 2019

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Residential Tenancy Branch