



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      CNC FFT OLC LRE

### **Introduction**

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (1 Month Notice) pursuant to section 40;
- authorization to recover the filing fee for this application, pursuant to section 65; and
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 55; and
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 63.

The landlord or landlord's agent did not attend this hearing, although I left the teleconference hearing connection open until 9:45 a.m. in order to enable the landlord to call into this teleconference hearing scheduled for 9:30 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.

Rule 7.3 of the Rules of Procedure provides as follows:

### **7.3 Consequences of not attending the hearing**

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

The tenant expressed concern in the hearing that she had not yet moved out, nor ended this tenancy, despite any beliefs or submissions from the landlord that the tenancy was over. The tenant testified that the landlord was still in possession of her pre-paid rent cheques, and she has not been returned them despite her requests for the landlord to do so. The tenant was informed that I was unable to address matters that were not part of the original application as no amendments have been filed. Accordingly, any issues unrelated to the original claim must be addressed as part of a new application, and were not considered.

The tenant indicated in the hearing that she was not served with any of the landlord's evidentiary materials for this hearing. Accordingly, the landlord's evidentiary materials were excluded for the purpose of this hearing.

### **Preliminary Issue - Service of Application for Dispute Resolution**

The tenant testified that on July 4, 2019, she had served the landlord with her application for dispute resolution by placing the package in the landlord's mail slot.

Section 82(1) of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution.

### ***Special rules for certain documents***

**82** (1) *An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 6, when required to be given to one party by another, must be given in one of the following 2 ways:*

- 2a) by leaving a copy with the person;*
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;*
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;*
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;*
- (e) as ordered by the director under section 64 (1) [director's orders: delivery and service of documents].*

I find that the landlord was not served in a manner compliant with section 82(1) as set out above. Accordingly, the tenant's entire application is dismissed without leave to reapply.

**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 rental unit 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.

In the absence of any written or oral submissions from the landlord for this hearing, I am unable to verify that the Notice complies with the requirements of section 45 of the *Act*. Under these circumstances, the 1 Month Notice dated June 22, 2019 is cancelled, and the tenancy is to continue until ended in accordance with the *Act*.

### **Conclusion**

I dismiss the tenant's entire application for dispute resolution without leave to reapply.

The landlord's 1 Month Notice dated June 22, 2019 is cancelled, and the tenancy is to continue until ended in accordance with the *Act*.

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: August 19, 2019

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Residential Tenancy Branch