



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC, FFL

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on January 6, 2020 (the "Application"). The Landlord applied for the following relief, pursuant to the *Manufactured Home Park Tenancy Act* (the "Act"):

- an order of possession based on a One Month Notice for Cause dated November 30, 2019 (the "One Month Notice") and;
- an order granting recovery of the filing fee.

The hearing was scheduled for 9:30 AM on March 9, 2020 as a teleconference hearing. The Landlord's Agent appeared and provided affirmed testimony. No one appeared for the Tenant. The conference call line remained open and was monitored for 12 minutes before the call ended. 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 Landlord's Agent and I were the only persons who had called into this teleconference.

The Landlord's Agent testified the Application and documentary evidence package was served to the Tenant by registered mail on January 10, 2020. Based on the oral and written submissions of the Applicant, and in accordance with sections 82 and 83 of the *Act*, I find that the Tenant is deemed to have been served with the Application and documentary evidence on January 15, 2020, the fifth day after the registered mailing.

The Landlord's Agent was given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Is the Landlord entitled to an order of possession based on a One Month Notice for Cause, pursuant to Section 48 of the *Act*?
2. Is the Landlord entitled to the return of the filing fee, pursuant to Section 65 of the *Act*?

Background and Evidence

The Landlord's Agent testified that the tenancy began on December 1, 2013. Currently the Tenant is required to pay a pad rent in the amount of \$540.00 which is due to the Landlord on the first day of each month.

The Landlord's Agent stated that he had been receiving many complaints from a neighbouring occupant that the Tenant has been throwing dog feces on the neighbouring occupant's pad. The Landlord's Agent stated that he cautioned the Tenant about this, however, the incidents continued. The Landlord's Agent stated that he placed a video surveillance system which caught the Tenant in the act of throwing dog feces on the neighboring pad on November 27, 2019. The Landlord provided a copy of the video evidence in support. The Landlord's reason for ending the tenancy on the One Month Notice is;

*"Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord; and, seriously jeopardized the health or safety or lawful right of another occupant or the Landlord."*

The Landlord's Agent stated that he subsequently served the Tenant in person with the One Month Notice dated November 30, 2019 on November 30, 2019. The One Month Notice has an effective date of December 31, 2019. The Landlord provided a copy of the One Month Notice in support.

The Landlord's Agent stated that it appears as though the Tenant has moved; however, his mobile home remains on the pad. As such, the Landlord is seeking an order of possession in relation to the One Month Notice. If successful, the Landlord is also seeking the return of the filing fee.

### Analysis

Based on the uncontested documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

According to Section 40 (1) of the Act, a landlord may end a tenancy by giving notice to end the tenancy for cause.

The Landlord served the Tenant in person on November 30, 2019 with a One Month Notice to End Tenancy for Cause dated on November 30, 2019 with an effective vacancy date of December 31, 2019. Based on the oral and written submissions of the Applicant, and in accordance with sections 82 and 83 of the Act, I find that the Tenant is deemed to have been served with the One Month Notice on November 30, 2019.

Section 40(4) of the Act states that a Tenant may dispute a Notice by making an Application for Dispute Resolution within 10 days after the date the Tenant receives the Notice. Section 40(5) of the Act states that if a Tenant who has received a Notice does not make an Application for Dispute Resolution in accordance with Subsection (4), the Tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and must vacate the rental unit by that date.

As I have found that the Notice was deemed served to the Tenant on November 30, 2019 and that there is no evidence before me that the Tenant applied for Dispute Resolution within 10 days or applied for more time to cancel the Notice, I find that the Tenant is conclusively presumed to have accepted the end of her tenancy on December 31, 2019.

As the effective date of the One Month Notice has passed, I find that the Landlord is entitled to a two-day Order of Possession which must be served to the Tenant. If the Tenant does not comply with the Order, the Landlord may enforce this Order in the Supreme Court of British Columbia.

As the Landlord was successful with the Application seeking an order of possession for cause, I find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application.

Conclusion

The Tenant is conclusively presumed to have accepted the end of the tenancy for cause. Pursuant to Section 48 of the Act, I grant the Landlord an Order of Possession to be effective two days after notice is served on the Tenant. Should the Tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The Landlord is granted a monetary order in the amount of \$100.00 for the return of the filing fee. The order should be served to the Tenant as soon as possible and may be filed in and enforced as an order of the Provincial Court of BC (Small Claims).

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: March 09, 2020

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Residential Tenancy Branch