



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Cole Developments Ltd. and  
[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord on June 08, 2020 (the "Application"). The Landlord applied for an order ending the tenancy early pursuant to section 49 of the *Manufactured Home Park Tenancy Act* (the "Act"). The Landlord also sought reimbursement for the filing fee.

The Park Manager and Park Owner appeared for the Landlord with Legal Counsel. The Landlord called five witnesses during the hearing. The Tenants appeared at the hearing with their daughter, P.T., to assist. The Tenants called two witnesses during the hearing. All witnesses were outside of the room, or not on the call, until required.

I explained the hearing process to the parties who did not have questions when asked. All parties and witnesses, other than Legal Counsel, provided affirmed testimony.

Both parties submitted evidence prior to the hearing. I addressed service of the hearing package and evidence.

P.T. confirmed the Tenants received the hearing package and Landlord's evidence June 12, 2020. P.T. confirmed the Tenants received everything I had before me from the Landlord for this hearing.

P.T. testified that all evidence uploaded for the Tenants has been emailed to the Landlord. P.T. uploaded evidence starting June 16, 2020 up until June 23, 2020, the date of the hearing. P.T. confirmed that she emailed the evidence to the Landlord as it was uploaded, so on the same date as it was uploaded. P.T. mentioned that the Tenants have not had time to prepare for the hearing.

Legal Counsel confirmed receipt of over 60 emails from the Tenants. Legal Counsel advised that she had not had time to review the evidence received on or after Friday, June 19, 2020 with her clients. Legal Counsel submitted that the evidence served June 19, 2020 or later should be excluded due to the timing of service. Legal Counsel confirmed the Landlord did not want to adjourn the matter to have time to review the evidence.

P.T. took the position that the evidence submitted after June 20, 2020 was new evidence.

This was an expedited hearing. The Landlord applied June 08, 2020 and a hearing was set for June 23, 2020, 15 days later. The hearing package was made available to the Landlord June 10, 2020 for service on the Tenants. Pursuant to rule 10.3 of the Rules of Procedure (the "Rules"), the Landlord had one day to serve the Tenants with the hearing package and evidence. Pursuant to the Director's Order issued June 26, 2019, the Landlord was permitted to serve the documents by posting them to the door of the Tenants' residence.

The Landlord submitted a Proof of Service signed by a witness, J.W., confirming the documents were posted to the Tenants' door June 11, 2020. There is also a photo attached. I am satisfied based on the Proof of Service and photo that this was done. I am satisfied the Landlord complied with rule 10.3 of the Rules, the Director's Order and sections 81(g) and 82(2)(d) of the *Act* in relation to the timing and method of service.

The Tenants acknowledged receiving the hearing package and evidence June 12, 2020. I acknowledge that the hearing took place only 11 days after the Tenants received the hearing package and evidence and that this is not a lengthy period of time. However, I find that the Rules and Director's Order contemplates this timeline by permitting service in the manner outlined where the hearing is set 15 days out from filing of the Application. I find the timeline appropriate.

Rule 10.5 of the Rules required the Tenants to serve their evidence on the Landlord "at least two days before the hearing". This means the Tenants had to serve their evidence by June 20, 2020. There is no issue that Legal Counsel received the evidence served, the issue is with late service. I am satisfied anything submitted and served after June 20, 2020 was served late and not in compliance with the Rules. I have looked through this evidence and find that the evidence is either duplicates of evidence submitted earlier, not relevant to the issues before me or could have been obtained and served by June 20, 2020. I note that videos or audios were submitted that I cannot open. P.T. did

not make submissions during the hearing about the specific evidence submitted or why it could not have been obtained and served earlier.

In the circumstances, I exclude the evidence submitted and served June 21, 2020 or later pursuant to rule 3.17 of the Rules as I find it would be unfair to the Landlord to consider evidence served late when the Landlord has not had a chance to review the evidence such that they can respond to it.

The evidence served up to June 20, 2020 is admissible. I acknowledge that Legal Counsel did not have a chance to review the evidence served June 19, 2020 on with the Landlord. However, the Landlord sought an expedited hearing and part of doing so meant rule 10.5 of the Rules would apply. The Landlord should have been aware of the service requirements and ensured they reviewed the evidence received within those requirements. The Tenants complied with rule 10.5. In my view, the only appropriate remedy for the Landlord would have been an adjournment which the Landlord did not want.

I proceeded with the hearing. The hearing lasted three hours and fifteen minutes. Both parties were given a full opportunity to present relevant evidence, make relevant submissions and ask relevant questions. I have considered the admissible documentary evidence and all oral testimony of the parties and witnesses. I will only refer to the evidence I find relevant in this decision.

#### Issues to be Decided

1. Is the Landlord entitled to an order ending the tenancy early pursuant to section 49 of the *Act*?
2. Is the Landlord entitled to reimbursement for the filing fee?

#### Background and Evidence

The parties agreed on the following. There is no written tenancy agreement in this matter. There is a tenancy agreement between the parties in relation to the site. The tenancy started April 01, 2007 and is a month-to-month tenancy. The parties disagreed on the rent, Legal Counsel stating it is \$466.00 and the Tenants stating it is \$467.00. The parties agreed rent is due on the first day of each month.

The Landlord relied mainly on actions of L.D. as a basis for ending the tenancy. My understanding from the materials is that L.D. is, or was, in a relationship with P.T. who is the Tenants' daughter.

The parties had appeared before the RTB on File Number 1 in October of 2019. A decision on File Number 1 was issued November 05, 2019. The Tenants disputed a One Month Notice. The basis for the One Month Notice was the behaviour and actions of L.D. and in part P.T. From the decision, it does not appear that the Tenants disputed the allegations. In fact, the Tenants stated that they were going to get a restraining order against P.T. and L.D. The Arbitrator cancelled the One Month Notice. However, in the decision, the Arbitrator noted that the Tenants are responsible for the actions of those they permit on the property. The Arbitrator stated:

The conduct of the tenant's daughter (P.T.) and her boyfriend (L.D.) are unreasonable and disturbing and it comes very close to being grounds to end the tenancy. However, I determined it was not appropriate to end the tenancy at this time for the following reasons...

The Arbitrator listed a number of reasons, one of which was that the Tenants intended on getting a restraining order against P.T. and L.D. The Arbitrator stated that they found it appropriate to give the Tenants a chance to bring the conduct of P.T. and L.D. under control.

The Arbitrator concluded by stating:

However, the tenants are put on notice that they are responsible for the conduct of individuals they have allowed onto the property. This includes the conduct of their daughter and her boyfriend. If further problems continue it may very well be that the landlord might be successful in ending the tenancy pursuant to a subsequent Notice to End Tenancy.

The Landlord presented evidence about three incidents that have occurred on the property with L.D. since the previous decision including on May 19, 22 and 29, 2020.

Legal Counsel made the following submissions. The Tenants are responsible for their guests including P.T. and L.D. P.T. and L.D. have significantly interfered with and unreasonably disturbed employees of the Landlord and other tenants on the property. The harassment and aggressive behaviour of the Tenants' guests has continued since

the last RTB decision. It is unfair to make other tenants on the property wait for further incidents to occur.

Legal Counsel submitted that, on May 19, 2020, L.D. was seen trespassing through other tenants' yards and making threats of harm or significant damage to other tenants' property.

The Landlord called C.M. and R.M. as witnesses. They are husband and wife. R.M. testified while C.M. was out of the room and C.M. testified while R.M. was out of the room.

R.M. testified as follows. He has lived on the property for seven years. On May 19, 2020, C.M. was in the yard. He joined her. They were drinking coffee. L.D. showed up on the property behind theirs and sat down. He and L.D. made eye contact. L.D. said, "I'm watching you". He said, "what's your problem". The verbal abuse from L.D. started. He and C.M. tried to shoo L.D. away. L.D. then said, "what's your problem", but using profanity. L.D. continued to state this. He and C.M. were both worried because they were not sure of L.D.'s mind set. L.D. then threatened to burn their mobile home with both of them in it. He told C.M. to call the police. L.D. then said he would shoot R.M. in the head. C.M. came back. L.D. stood up and made a comment about the current pandemic being "bull", but using profanity. L.D. left. He drove his truck to where he thought L.D. was going and met some neighbours. He saw J.W. coming down the street with the police. C.M. told him L.D. had been arrested.

R.M. testified that this incident made him very upset, very disturbed and quite worried. R.M. testified that he filed a police report about this.

In response to questions from P.T., R.M. testified that the interaction with L.D. occurred at 10:30 a.m. R.M. testified that L.D. seemed irrational during the incident.

C.M. testified as follows in relation to the May 19, 2020 incident. She was sitting in her backyard around 10:00 a.m. She heard someone screaming and saying, "leave me alone". R.M. came out around 10:30 a.m. R.M. started staring at the bushes. There was a male crouched down staring at them. R.M. asked what the male's problem was. The male replied, "not my problem, your problem", but using profanity. She said something like "shoo" or "go away". She was really uneasy and not sure where the male had come from. The male then said he would burn their mobile home and make sure they were inside. She went in to call the Park Manager. She was really rattled. The male was yelling about the current pandemic being "bull", but using profanity. The

male called her an old lady, but using profanity. The male left. She called police. Later, J.W. was at the top of the knoll and said the police had got the male.

C.M. testified that this incident made her feel very, very uneasy and nervous. She said she is uneasy about sitting outside still and is always looking over her shoulder. She testified that she is also angry about the incident because she should not have to feel this way in her own home. She testified that she is worried for others on the property who are elderly.

P.T. asked C.M. what she had heard about L.D. from others. C.M. testified that she has heard about issues the Park Manager has had with L.D. such as L.D. yelling at the Park Manager. C.M. testified that she has heard of issues J.W. has had with L.D. threatening and watching him. C.M. testified that she has heard about L.D. peeing in other tenants' yards and trying to break into other homes. C.M. acknowledged that she is friendly with the Park Manager and J.W. but denied she is friends with them.

P.T. made the following submissions about the incident outlined above. She is requesting a case file about an incident on May 19, 2020 and she is confident it will show the incident did not last 30 minutes as claimed by C.M. and R.M. L.D. had been drugged and sexually assaulted on May 19, 2020 and she called 911 and the ambulance to assist L.D. The alleged incident happened during this call. C.M. admitted that the Park Manager and J.W. have spoken to her about L.D. This shows the Park Manager has been slandering and defaming L.D.

P.T. submitted that the issue with times shows the incident may not have happened as C.M. and R.M. have portrayed. P.T. stated that she was not a witness to the incident so cannot say whether it happened but that the incident did not last past 10:30 a.m. as claimed. P.T. submitted that the incident is exaggerated in relation to both the timing and what occurred. P.T. submitted that if C.M. and R.M. are wrong about the timing, they are wrong about the incident itself. I confirmed with P.T. at the end of her submissions that she cannot say whether the incident happened or not because she was not there.

The Landlord called J.O. as a witness to testify about the May 19, 2020 incident. He testified that he saw L.D. while he was driving on the property and that L.D. came at his truck aggressively such that he called the police. He testified that he knew L.D. was meaning to do harm. He testified that L.D.'s behaviour was out of the ordinary and L.D. was quite upset.

P.T. pointed out a conflict between the Landlord's written submissions, which state that J.O. was in the park working May 19, 2020, and J.O.'s testimony that he was in the park looking for a place to buy.

The Landlord called J.W. as a witness. J.W. is a grounds keeper at the property.

J.W. testified as follows in relation to the May 19, 2020 incident. His involvement was limited. He drove past a site on the property and observed L.D. climb onto a porch railing of one of the homes. L.D. looked around and then hopped off. A few minutes later, the police drove around the corner, stopped and asked if he had seen L.D. He saw police put L.D. in the police car in handcuffs.

J.W. testified as follows about an incident on May 22, 2020. He was mowing the common area adjacent to the Tenants' site. L.D. came out of the home with a sharpened stick in his hand. L.D. was screaming, stabbing the ground and telling him off using profanities. He did not exchange words with L.D. and continued working.

J.W. testified about an incident on May 29, 2020 where M.K. observed L.D. swinging a machete and then lodging the machete in the fence. J.W. was mowing the lawn at the time. J.W. acknowledged without prompting that he did not see this occur and only heard about it from M.K. J.W. testified that he has not entered the property since because of this incident.

J.W. testified about the impact of the above incidents on him and testified that he was shaken, stressed and is now on the verge of depression. He testified that he has been the grounds keeper for three years. J.W. testified that he found the May 22, 2020 incident threatening and was scared L.D. would hit him in the head with the stick.

J.W. testified that the above were not the first encounters he has had with L.D. and that there was a previous incident where L.D. came out of the site with a table leg on his shoulder in a threatening manner. Legal Counsel asked if L.D. was swinging the table leg. J.W. replied that L.D. was not and had it placed on his shoulder making J.W. aware he was willing to use it. J.W. testified that L.D. had a body language of violence.

P.T. asked J.W. why he continued with his work if he found the incident on May 22, 2020 threatening. J.W. responded by asking why he should let someone with a violent past dictate his job.

Legal Counsel submitted that J.W.'s testimony shows L.D.'s behaviour has impacted J.W.'s work and that this is an interference with the Landlord's rights and duties.

P.T. submitted that the Tenants could not make submissions on the May 22, 2020 because they had never heard about this incident previously. I note that at point 31 of the Landlord's written submissions, it states that L.D. has harassed J.W. for mowing the common property "on more than one occasion". P.T. acknowledged that the Tenants have not submitted evidence about the May 22, 2020 incident and submitted that it did not happen.

P.T. submitted that J.W.'s testimony is false. P.T. submitted that the Tenants have submitted a photo which shows the alleged machete was not a machete. P.T. testified that J.W. has repeatedly acted in a threatening manner towards the Tenants and the Tenants fear J.W. because of his attack on H.G.

The Landlord called M.K. to testify about the May 29, 2020 incident. M.K. testified that he saw L.D. swinging a machete in a threatening manner when J.W. was mowing the common area lawn. He testified that he saw the blade of the machete. The Landlord had submitted a photo M.K. took of the alleged machete. M.K. testified that L.D. had embedded the machete at least one foot into the fence. M.K. testified that he took the photo submitted at the time of the incident.

The Tenants had submitted photos which appear to show the alleged machete and that it is in fact a garden hoe. I asked Legal Counsel for the Landlord's position on the photos. Legal Counsel was not prepared to speak to the Tenants' photos and could not point to anything in the photos that would suggest the Tenants' photos are of something other than the alleged machete shown in the Landlord's photos.

M.K. also testified about an encounter with L.D. which has been covered in the previous RTB decision on File Number 1.

P.T. submitted that M.K.'s testimony is false and inaccurate and that the Tenants' whole position is that the Landlord and other tenants are harassing the Tenants and fabricating stories. P.T. pointed out that the photos submitted contradict M.K.'s testimony.

The Park Manager testified as follows. She has been the Park Manager for 13 years. The Tenants have a long history of receiving warning letters. She does not go to areas around the Tenants' site for fear of allegations that she is trespassing. Accusations are



being made against her. She feels harassed. She has been accused of things she is not doing. The Tenants are responsible for their guests as stated at the last hearing. The Tenants keep allowing P.T. and L.D. on the property which has now affected the other tenants. L.D. has been around for three or four years. P.T. is very difficult to deal with.

The Park Manager testified as follows in relation to questions from P.T. The Landlord has issued the Tenants three eviction notices. She is not sure of this number and would have to check the file. She has talked to other tenants about P.T. and L.D. as well as their history. She has let other tenants know that they should call the police when issues arise with P.T. and L.D. because of their history.

Legal Counsel made the following further submissions. The Landlord has an obligation to protect the quiet enjoyment of other tenants. The issues with P.T. and L.D. are ongoing. There has been significant interference and unreasonable disturbance of other tenants and employees of the Landlord. It would be unfair to require the Landlord to wait for the state of emergency to end to end this tenancy. The issues need to be addressed now. The issues are ongoing. There has already been a prior hearing and warning about the issues.

The Tenants called H.G. as a witness who testified as follows. On February 14, 2019, J.W. was shovelling snow with a bobcat at the side of the Tenants home and almost hit him with the shovel. He has heard the Park Manager tell the Tenants that if they just listen and do what she says all of this will go away.

The Tenants called R.B. as a witness who testified as follows. He had a conversation with P.T. about two men accosting her and getting into her personal space on the property. P.T. was shaken. He is a good "buddy" of Tenant D.T. and the Tenants are great people. He has no problems with the Tenants at all. He does not feel threatened by the Tenants, P.T. or L.D. He has heard from the Tenants that they feel the Park Manager treats them unfairly.

In response to questions from Legal Counsel, R.B. testified as follows. He lives across the street from the Tenants. He has talked to L.D. once. L.D. is not around much. He has known P.T. for five and a half years. He did not witness any incident with L.D. at the property on May 19, 2020. He has not had issues with the Park Manager or the Landlord.

Tenant S.T. testified as follows. She was told to say she was afraid of P.T. She is afraid of being kicked out of the site. She is very sick and needs P.T.'s help.

Tenant D.T. testified that he has not had a lot of real problems with the Park Manager.

I asked the Tenants why they told the last Arbitrator they were going to get a restraining order against P.T. and L.D. Tenant S.T. testified that she did not understand a lot of things and that she needs P.T.

P.T. made the following submissions. The events of May 19, 2020 are fabricated. The CSO evidence submitted is misleading and the Landlord was not permitted to use it. On May 19, 2020, two of the men who gave evidence viciously attacked her, blocked her path and took photos that were then used as evidence. The two men were E.C. and D.K. These two men fabricated the incidents alleged about L.D. The incidents alleged about L.D. are not true. L.D. was drugged and sexually assaulted on May 19, 2020. The Tenants have been subject to harassment and attempts to have them forfeit their home without cause. The Park Manager has attempted to strip the Tenants of their support system.

Legal Counsel asked P.T. questions. P.T. testified as follows. She was not with L.D. May 19, 2020. She was in the garden and alerted to the fact that L.D. had been drugged and sexually assaulted. She called an ambulance. She was not with L.D. She does not recall L.D. being arrested May 19, 2020. She is not sure if L.D. went to the hospital. She cannot say what happened after she called the ambulance because she gave the phone to her mother to answer. The ambulance did not show up to the property. Her mother came out and told her "they called and say he is safe". She does not recall what phone she used to call the ambulance because she has a bad memory. She did not see L.D. on May 19, 2020. She did not visit L.D. in the hospital and has not seen him since. L.D. has not been on the property since May 19, 2020.

In reply, the Park Manager testified that L.D. has been on the property June 12, 2020 and June 14, 2020, both times yelling at her.

Legal Counsel sought an Order of Possession effective two days after service on the Tenants.

The Landlord's written submissions include that the Landlord is seeking to end the tenancy on the basis that the Tenants' guests have significantly interfered with or

unreasonably disturbed another tenant and seriously jeopardized the health and safety or a lawful right or interest of the Landlord or another tenant.

The Landlord submitted the following documentary evidence. Letters to the Tenants dated November 19, 2019 and December 16, 2019 which include allegations that the Tenants and their guests continue to cause issues despite the prior RTB decision on File Number 1. Emails and unsigned witness statements from other tenants. A written and signed statement from C.M. and R.M. which provides more detail about the May 19, 2020 incident.

The Tenants submitted the following admissible documentary evidence:

- A letter from P.T. which states that, on the morning everyone alleges L.D. ran around acting in a threatening manner, L.D. had been drugged and sexually assaulted by a man the night before and was hallucinating from the combination of whatever drug the guy slipped him and his mental health problems.
- An email from T.L., a friend of P.T.'s., about her opinion of this matter. It does not seem that T.L. was a witness to any of the incidents outlined above. The email includes general comments about P.T. and L.D.
- Emails from P.T. to Legal Counsel
- An email from Legal Counsel to P.T.
- A tax bill
- Unsigned witness statements
- A screen capture video that does not have sound. It is not clear what the video is showing.
- Videos that cannot be opened
- Text messages about the incident that occurred between J.W. and H.G.
- Photos of the garden hoe handle and garden hoe
- Copies of the Landlord's evidence
- CSO results in relation to P.T.
- A signed statement from S.F. stating that this individual has witnessed the Park Manager come over and harass P.T. in July of 2018
- An unsigned statement from H.G. H.G. did not refer to this statement during the hearing despite me telling the parties that their witnesses should confirm their statements or emails that are unsigned.
- An email statement from L.A. which is a character reference for P.T. and H.G. It states that L.A. is unaware of the current situation.
- A signed witness statement from R.B. attesting to the character of the Tenants and their family

- A signed statement from M.H. stating that this person does not see or hear issues with the Tenants that would warrant an eviction notice. It states that the Tenants are quiet, do not bother others and do not pose a threat to others. It states that this individual has never had a problem with the Tenants or those associated to the Tenants.

### Analysis

Section 49 of the *Act* allows an arbitrator to end a tenancy early when two conditions are met. First, the tenant, or a person permitted in the manufactured home park by the tenant, must have done one of the following:

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the manufactured home park;
- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
- (iii) put the landlord's property at significant risk;
- (iv) engaged in illegal activity that
  - (A) has caused or is likely to cause damage to the landlord's property,
  - (B) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the manufactured home park, or
  - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- (v) caused extraordinary damage to the manufactured home park...

Second, it must be unreasonable or unfair to require the landlord to wait for a notice to end the tenancy under section 40 of the *Act* to take effect.

Pursuant to rule 6.6 of the Rules, the Landlord, as applicant, has the onus to prove the circumstances meet this two-part test. The standard of proof is on a balance of probabilities meaning it is more likely than not the facts occurred as claimed.

I note at the outset that I place no weight on emails from witnesses or unsigned witness statements submitted by either party. I do not find emails from witnesses or unsigned witness statements to be reliable or credible evidence. If parties wish to submit evidence from someone who is not going to appear in the hearing and provide affirmed testimony, that evidence should be in the form of a signed witness statement.

I am satisfied that, on May 19, 2020, L.D. told C.M. and R.M. that he would burn their mobile home and make sure they were inside, or some words to this effect. I find this for the following reasons.

C.M. and R.M. were reliable and credible witnesses. They gave very similar accounts of the incident. They gave detailed accounts of the incident. They did not contradict themselves or each other in any substantial way. Nothing they said seemed contrary to common sense.

None of the questions posed by P.T. cause me to question C.M. or R.M.'s testimony.

The Tenants have not submitted any evidence that causes me to question C.M. or R.M.'s testimony. The Tenants did not speak to the May 19, 2020 incident. P.T. acknowledged that she cannot say whether the incident happened because she was not there. The Tenants did not call L.D. as a witness or provide a witness statement from L.D. Neither of the witnesses called by the Tenants could speak to whether the May 19, 2020 incident happened. None of the Tenants' documentary evidence calls into question the testimony of C.M. or R.M.

I do not accept the submission that C.M. and R.M.'s timing is off and therefore the incident could not have happened. First, there is insufficient evidence before me to show their timing is off. Second, even accepting their timing is off, I do not accept that this leads to the conclusion that they fabricated their evidence. As stated, C.M. and R.M. were reliable and credible witnesses. Even if their timing is off, I do not accept that this shows they made up the entire incident. It is not unusual or suspect for witnesses to be off on their timing given it is rare for people to pay close attention or keep track of the time continuously throughout their day.

I do not accept that C.M. or R.M. were influenced by the Park Manager, J.W., E.C., D.K. or others to fabricate, or exaggerate, the incident. The Tenants have not submitted any compelling evidence to show that others had any influence over C.M. and R.M. The Tenants have not submitted any compelling evidence to show C.M. and R.M. had some motivation to fabricate evidence against L.D. or the Tenants. It is not unusual for

neighbours to talk about issues in their neighbourhood. I am not satisfied based on the evidence provided that any talk among neighbours influenced C.M. or R.M. to fabricate or exaggerate their evidence.

P.T. submitted that L.D. had been drugged and sexually assaulted on May 19, 2020. I understood P.T. to be submitting that the incident was out of character for L.D. or was out of L.D.'s control given he had been drugged. First, I am not satisfied based on the evidence provided that L.D. was under the influence of drugs at the time of the incident in the absence of evidence from L.D. about this or some further documentary evidence to support this. Second, I do not accept that the behaviour was out of character for L.D. given the previous decision on File Number 1 and my findings in this decision.

In the circumstances, I accept that the May 19, 2020 incident occurred as described by C.M. and R.M. I note that I am also satisfied L.D. told R.M. he would shoot R.M. in the head for the same reasons as outlined above.

I am satisfied that, on May 22, 2020, L.D. came out of the Tenants' home with a sharpened stick, screamed at J.W., stabbed the ground and told J.W. off using profanities. I am satisfied of this based on the following.

J.W. was a reliable and credible witness. His testimony was detailed. He readily acknowledged issues that "weakened" his position or testimony. For example, he stated without prompting that he had limited involvement in the May 19, 2020 incident. He acknowledged without prompting that he did not see the May 29, 2020 incident with the machete and was only told about it by M.K. At one point Legal Counsel asked a leading question about whether L.D. was swinging the table leg during the previous encounter and J.W. outright denied this and reiterated that L.D. had it placed on his shoulder. I found these aspects of J.W.'s testimony to show that J.W. was being forthcoming and not exaggerating his knowledge of the incidents or what he saw during the incidents.

None of the questions posed by P.T. cause me to question the testimony of J.W.

The Tenants did not present evidence to dispute the May 22, 2020 incident. P.T. acknowledged that none of the documentary evidence submitted addressed this incident. The Tenants did not testify about it. Although P.T. submitted that the incident did not happen, I am not satisfied P.T. knows whether it happened as I am not satisfied P.T. was there or with L.D. such that she could account for his whereabouts.

I note that P.T. took the position that the Tenants did not present evidence about this incident because they did not know about it. However, it is clear from the Landlord's materials that the issue at this hearing was going to be the behaviour of L.D. If the Tenants wanted to dispute the allegations, they should have called L.D. as a witness or had L.D. provide a witness statement.

I acknowledge the testimony of H.G. in relation to J.W. I find the incident between J.W. and H.G. irrelevant to whether the May 22, 2020 occurred. I do not accept that an incident with H.G. more than a year ago somehow calls into question the testimony of J.W. in relation to an incident with L.D. The Tenants have not shown a connection between these two incidents.

I acknowledge that the Tenants submitted photos which call into question the testimony of M.K. about the May 29, 2020 incident. However, the photos do not call into question the testimony of J.W. as J.W. acknowledged that he did not see the machete incident and was only told about it by M.K.

P.T. submitted that the Park Manager, J.W. and others have harassed and threatened the Tenants. I do not find the evidence provided sufficient to show a pattern of the Park Manager, J.W. or others fabricating evidence about L.D.

The Tenants submitted general character evidence about themselves, P.T. and L.D. I do not find general character evidence useful in determining whether the specific incidents in question occurred. Further, I do not accept that either the May 19, 2020 or May 22, 2020 incidents were out of character for L.D. given the prior decision on File Number 1 and my findings in this decision.

I note that much of the evidence the Tenants and P.T. take issue with is not being relied on by me in this decision. For example, I have not relied on the CSO information, any evidence from E.C., any evidence from D.K or the evidence of M.K.

Given all of the above, I am satisfied on a balance of probabilities that the May 19, 2020 and May 22, 2020 incidents occurred as outlined by C.M., R.M. and J.W.

There is no issue that the Tenants are responsible for their guests that they invite or allow onto the property. This was made clear in the decision on File Number 1. It is also clear from a plain reading of section 49 of the *Act*.

The Tenants were warned in the decision on File Number 1 that the conduct of P.T. and L.D. as outlined in that decision was unreasonable, disturbing and came very close to being grounds to end the tenancy. The Tenants were warned that the Landlord may be successful in ending the tenancy if problems continued.

Despite these warnings, I find the Tenants either invited or allowed L.D. onto the property on May 19, 2020 and May 22, 2020 as I am satisfied L.D. was on the property May 19, 2020 and in the Tenants' home May 22, 2020. The Tenants told the last Arbitrator that they were going to get a restraining order against P.T. and L.D. Yet, at this hearing, Tenant S.T. seemed to suggest that the Tenants were told to say certain things or did not understand the last hearing. Neither P.T. nor the Tenants pointed to any steps the Tenants took to keep L.D. from coming to the property. I am satisfied the Tenants continued to allow L.D. onto the property and into their home.

Despite the warnings in the prior RTB decision, I am satisfied that L.D. not only came onto the property but threatened C.M. and R.M. that he would burn their mobile home down with them in it and would shoot R.M. in the head. I am satisfied police were called in relation to this. I find this incident to be incredibly serious. I find this incident alone sufficient to justify ending this tenancy under section 49 of the *Act*.

However, I am satisfied that L.D. again came onto the property on May 22, 2020. I am satisfied he was in the Tenants' home and came out of their home with a sharpened stick and proceeded to scream, stab the ground and yell profanities at J.W. I find this incident to be serious. I find it to be even more serious given the context of the other incidents involving L.D. as outlined in the previous RTB decision and the May 19, 2020 incident.

Based on the incidents outlined in the previous RTB decision, the May 19, 2020 incident and the May 22, 2020 incident, I am satisfied L.D. has shown a pattern of behaviour that is inappropriate, threatening, disturbing and cause to end this tenancy. I find it cause to end this tenancy because the Tenants continued to invite or allow L.D. onto the property despite the warnings outlined in the previous RTB decision.

I am satisfied L.D. has significantly interfered with and unreasonably disturbed C.M., R.M. and J.W. I am also satisfied L.D. poses a serious risk to the health and safety of other tenants and J.W.

I am satisfied it would be unreasonable to require the Landlord to issue the Tenants a One Month Notice to deal with the issues raised. I find this given the Tenants were



already warned that further inappropriate conduct by P.T. or L.D. could result in their tenancy ending and yet the Tenants continued to allow L.D. onto the property and into their home. I find this given there is a history of issues as shown by the prior RTB decision. I find this given the seriousness of L.D.'s behaviour and threats. I find this because it would be unfair to require other tenants and employees of the Landlord to remain fearful of being in their own homes or at their place of work.

I am satisfied the Landlord has met their onus to prove the tenancy should end pursuant to section 49 of the *Act*. I issue the Landlord an Order of Possession for the site which will be effective two days after service on the Tenants.

Given the Landlord was successful, I award the Landlord reimbursement for the \$100.00 filing fee pursuant to section 65(1) of the *Act*. The Landlord is issued a Monetary Order for this amount.

### Conclusion

The Landlord is issued an Order of Possession effective two days after service on the Tenants. This Order must be served on the Tenants and, if the Tenants do not comply with this Order, it may be filed and enforced in the Supreme Court as an order of that Court.

The Landlord is entitled to reimbursement for the \$100.00 filing fee and is issued a Monetary Order for this amount.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: June 24, 2020

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Residential Tenancy Branch