



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SORRENTO PLACE HOLDINGS  
LTD and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET, FFL

### Introduction

This hearing dealt with the Landlord's Application filed under the *Manufactured Home Park Tenancy Act* (the "*Act*"), for an early end of tenancy pursuant to section 49 of the *Act* and to recover the cost of filing the application from the Tenants. The matter was set for a conference call.

The Landlord, the Property Manager (the "Landlord") and both the Tenants attended the hearing and were each affirmed to be truthful in their testimony. The Landlord and Tenants were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before 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.

### Issues to be Decided

- Are the Landlords entitled to an early end of tenancy and an Order of Possession, under section 49 of the *Act*?
- Are the Landlords entitled to recover the filing fee for this application pursuant to section 65 of the *Act*?

### Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The Landlord testified that the Tenant B.D. physically assaulted the sister of another occupant of the park on August 12, 2020, with a powered gardening tool. The Landlord testified that the police were called, and the Tenant was arrested and charged with assault due to this incident. The Landlord provided the police file number in their testimony.

The Landlord testified that several occupants in the park have expressed concerns regarding the Tenant B.D. aggressive behaviour, stating that they are concerned for their safety. The Landlord testified that due to the complaints and the incident on August 12, 2020, they are seeking to end this tenancy.

The Tenant testified that there had been an ongoing dispute with their next-door neighbour, which had involved a previously unreported assault, an unpaid medical bill, and the current complaint regarding rocks hitting parked cars during yard work.

The Tenant testified that they agree there had been an incident on August 12, 2020, with their neighbour's sister. The Tenant testified that they had been outside clearing weeds from their property, using an electric weed eater. The weed-eater caused a few rocks to be kicked up into the air, and that those rocks did strike a parked car.

The Tenant testified that they felt bad about the rocks hitting the car but that they decided to continue in their yard work. The Tenant testified that they were then struck from behind, thinking it had been their neighbour who had struck them, and due to their previous disputes with that person, they swung around with the weed-eater in hand to protect themselves and struck the person who had hit them. The Tenant testified that they then realized it was not their neighbour who had struck them, it had been this third-party female.

The Tenant testified that they had been arrested and charged as a result of this incident and that they have a court date for these charges next month.

## Analysis

Based on the above, testimony and evidence, and on a balance of probabilities, I find as follows:

An application for an early end of tenancy is an exceptional measure, to be taken only when a landlord can show that it would be unreasonable or unfair for the landlord or other occupants to allow the tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution.

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to tenancy and an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause. Section 56 states the following:

### ***Application for order ending tenancy early***

*49 (1) A landlord may make an application for dispute resolution to request an order*

*(a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 40 [landlord's notice: cause], and*

*(b) granting the landlord an order of possession in respect of the manufactured home site.*

*(2) The director may make an order specifying the date on which the tenancy ends and the effective date of the order of possession only if satisfied that*

*(a) the tenant or a person permitted in the manufactured home park by the tenant has done any 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, and*
- (b) it would be unreasonable, or unfair to the landlord or other occupants of the manufactured home park, to wait for a notice to end the tenancy under section 40 [landlord's notice: cause] to take effect.*
- (3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.*

In order to end a tenancy early and issue an Order of Possession under section 56, I must be satisfied that the tenant has done any of the following.

- Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- Seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
- Put the landlord's property at significant risk;
- Engaged in illegal activity that has caused or is likely to cause damage to the landlord's property,
- Engaged in illegal activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety, or physical well-being of another occupant of the residential property, or
- Engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- Engaged in illegal activity that caused extraordinary damage to the residential property.

In this case, I accept the Tenant's testimony that on August 12, 2020, the Tenant did hit a person with their weed-eater on the rental property, that this person was a family member of another occupant of the rental property, and that the Tenant was arrested and charged with assaulting this person.

Based on the Tenant's testimony and on a balance of probabilities, I find that the Tenant's actions would have seriously jeopardized the safety or a lawful right or interest of the landlord or another occupant of this rental property. Consequently, I find it appropriate to end this tenancy pursuant to section 56 of the *Act*.

As this tenancy involves a manufactured home, I also find it appropriate to grant additional time to these Tenants to arrange the logistic of their move.

Accordingly, I grant the Landlord an Order of Possession pursuant to section 56 of the *Act*, effective thirty days after service of the order on the Tenants. Should the Tenants fail to comply with this Order, this order may be filed in the Supreme Court and enforced as an order of that Court.

Section 65 of the *Act* gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlord has been successful in this application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I grant an **Order of Possession** to the Landlord effective **thirty days** after service of this Order on the Tenants. Should the Tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I grant a **Monetary Order** in the amount of **\$100.00** to the Landlord. The Landlord is provided with this Order in the above terms, and the Tenants must be served with this Order as soon as possible. Should the Tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: September 17, 2020

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Residential Tenancy Branch