



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 0955109 BC LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on October 14, 2020 (the "Application"). The Tenant applied to dispute a One Month Notice to End Tenancy for Cause dated October 08, 2020 (the "Notice").

The Representatives for the Landlord appeared at the hearing. Nobody appeared at the hearing for the Tenant. I asked if the Tenant was present at the outset of the hearing and received no response. I confirmed through the teleconference system that the Representatives for the Landlord and I were the only people who had called into the hearing. I waited 10 minutes at the outset of the hearing for the Tenant to appear; however, nobody called into the hearing for the Tenant for the duration of the hearing which lasted 29 minutes.

The Representatives for the Landlord sought an Order of Possession based on the Notice.

The Application was filed pursuant to the Residential Tenancy Act. P.D. confirmed the Tenant rents a site, owns the home on the site and that this matter falls under the Manufactured Home Park Tenancy Act (the "Act"). I have considered this matter under the Act.

I explained the hearing process to the Representatives for the Landlord who did not have questions when asked. The Representatives for the Landlord provided affirmed testimony.

The Landlord submitted evidence prior to the hearing. The Tenant submitted the Notice as evidence. I addressed service of the hearing package and Landlord's evidence. I

did not address service of the Notice on the Landlord given the Notice was issued by the Landlord.

P.D. confirmed receipt of the hearing package. P.D. and M.D. testified that the Landlord's evidence was served on the Tenant in person by M.D. on December 18, 2020. The Landlord submitted a Proof of Service to this effect.

Based on the undisputed testimony of P.D. and M.D., and to some extent on the Proof of Service, I am satisfied the Tenant was served with the Landlord's evidence in accordance with section 81(a) of the Act. I am also satisfied the Landlord complied with rule 3.15 of the Rules of Procedure (the "Rules") in relation to the timing of service. The Landlord's evidence is admissible.

I proceeded with the hearing in the absence of the Tenant. The Representatives for the Landlord were given an opportunity to present relevant evidence and make relevant submissions. I have considered all documentary evidence and all oral testimony of the Representatives for the Landlord. I will only refer to the evidence I find relevant in this decision.

#### Issues to be Decided

1. Should the Notice be cancelled?
2. If the Notice is not cancelled, should the Landlord be issued an Order of Possession?

#### Background and Evidence

A written tenancy agreement was submitted as evidence. The tenancy started May 01, 2018 and is a month-to-month tenancy. Rent is due on the first day of each month.

The Notice is addressed to the Tenant and refers to the site. It is signed and dated by D.J. It has an effective date of November 20, 2020. The grounds are as follows:

1. The Tenant or a person permitted on the property by the Tenant has:
  - a. Significantly interfered with or unreasonably disturbed another occupant or the Landlord;

- b. Seriously jeopardized the health or safety or lawful right of another occupant or the Landlord; and
  - c. Put the Landlord's property at significant risk.
2. The Tenant or a person permitted on the property by the Tenant has engaged in illegal activity that has, or is likely to:
  - a. Damage the Landlord's property;
  - b. Adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the Landlord; and
  - c. Jeopardize a lawful right or interest of another occupant or the Landlord.
3. The Tenant has assigned or sublet the site without the Landlord's written consent.

M.D. testified that all pages of the Notice were posted to the door of the Tenant's home October 08, 2020.

The Representatives for the Landlord confirmed the Landlord is relying on the written submissions in evidence for the grounds for the Notice. The written submissions state in part the following in relation to the grounds for the Notice:

- A person living with the Tenant was conducting a drug deal in the park and was arrested by police.
- There have been many ongoing issues with the Tenant including a lot of traffic and known drug dealers coming and going.
- Police have informed the Representatives for the Landlord that they have been watching the Tenant for some time and are aware of the activities.
- The person living with the Tenant came back to the park and was again arrested by police for breach of "parole".
- The person living with the Tenant has continued to come back to the park and site.
- Other tenants in the park are concerned about the situation but will not put their complaints in writing because they are concerned about the repercussions of doing so.
- The park is a family park with small children.

At the hearing, P.D. testified as follows. The Notice was issued due to constant traffic coming and going all day and night due to drug deals happening at the site. Both the Tenant and the person living with the Tenant are involved in drug dealing on the site. Police have been involved multiple times due to drug activity. Police have been watching the Tenant and site. The Tenant has been asked to stop this activity but has not stopped. The Tenant has become a real problem. Other tenants are fearful and afraid and have complained.

D.J. testified as follows. Issues with the Tenant have been occurring for some time. There have been issues with the Tenant selling drugs in the park since D.J. purchased the park. The Tenant has not been paying rent. The Tenant lies. The police have arrested the person living with the Tenant. The Tenant has no regard for the rules of the park. Police have been watching the site because of drugs being sold out of it. The Tenant just does what he wants.

D.J. sought an Order of Possession effective 30 days after service on the Tenant.

### Analysis

The Notice was issued pursuant to section 40 of the Act. Section 40(1)(c) of the Act states:

40 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies...

(c) the tenant or a person permitted in the manufactured home park by the tenant has

- (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, or
- (iii) put the landlord's property at significant risk...

The Tenant had 10 days to dispute the Notice pursuant to section 40(4) of the Act.

I am satisfied based on the undisputed testimony of M.D. and a Proof of Service in evidence that the Notice was served on the Tenant in accordance with section 81(g) of the Act on October 08, 2020. The Tenant is deemed to have received the Notice October 11, 2020 pursuant to section 83(c) of the Act. The Application was filed October 14, 2020, within time.

However, the Tenant did not appear at the hearing. Rules 7.3 and 7.4 of the Rules state:

#### 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.

#### 7.4 Evidence must be presented

Evidence must be presented by the party who submitted it, or by the party's agent. If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

Given the Tenant did not appear at the hearing to provide a basis for the dispute of the Notice or to present evidence on this point, the dispute is dismissed without leave to re-apply.

Section 48(1) of the Act states:

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 manufactured home site 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.

I have reviewed the Notice and find it complies with section 45 of the Act in form and content.

Further, I have considered the written submissions of the Landlord and undisputed testimony of P.D. and D.J. and am satisfied on a balance of probabilities that the Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord. Therefore, I am satisfied on a balance of probabilities that the Landlord had grounds to issue the Notice and I uphold the Notice.

Given I have dismissed the Tenant's dispute of the Notice, upheld the Notice and found that the Notice complies with section 45 of the Act, the Landlord is entitled to an Order of Possession pursuant to section 48(1) of the Act. The Landlord is issued an Order of Possession effective 30 days after service on the Tenant.

### Conclusion

The Landlord is issued an Order of Possession effective 30 days after service on the Tenant. This Order must be served on the Tenant. If the Tenant does not comply with this Order, it may be filed in the Supreme 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 Act.

Dated: January 07, 2021

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Residential Tenancy Branch