



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes:

ET, FFL

### Introduction

This hearing was convened in response to the Landlords' Application for Dispute Resolution, in which the Landlords applied for an Order of Possession, for an early end to the tenancy, and to recover the fee for filing this Application for Dispute Resolution.

The Landlord with the initials "HD" stated that on December 26, 2020 the Dispute Resolution Package and all evidence submitted to the Residential Tenancy Branch were personally served to each Tenant. On the basis of the undisputed evidence, I find that these documents were served to the Tenants in accordance with section 82 of the *Manufactured Home Park Tenancy Act (Act)*. As these documents were properly served to the Tenants, the evidence was accepted as evidence for these proceedings and the hearing proceeded in their absence.

The participants affirmed that they would speak the truth, the whole truth, and nothing but the truth at these proceedings.

### Preliminary Matter

The Landlord with the initials "HD" stated that these Tenants occupy one mobile home on the rental property, which belongs to the Tenants.

As the Landlords do not own the mobile home being occupied by the Tenants, I find that this Application for Dispute Resolution should have been made pursuant to the *Manufactured Home Park Tenancy Act*, rather than the *Residential Tenancy Act*.

Issue(s) to be Decided

Should this tenancy end early and, if so, should the Landlord be granted an Order of Possession?

Background and Evidence

The Landlord with the initials “HD” stated that:

- this tenancy began in June of 2020;
- rent is due by the first day of each month;
- on November 25, 2020 the Landlord went to the rental site for the purposes of posting a One Month Notice to End Tenancy for Cause on the door of the mobile home;
- the female Tenant opened the door of the mobile home so the One Month Notice to End Tenancy for Cause was personally served to her on November 25, 2020;
- the One Month Notice to End Tenancy for Cause declared that the tenancy was ending because the site must be vacated to comply with a government order;
- the One Month Notice to End Tenancy for Cause declared that the site must be vacated by December 21, 2020;
- on December 20, 2020 the male Tenant yelled various “threats”, such as “I know where you live”; “I’m going to get even with you”; “You don’t know what I am capable of” and “You’re going to pay for this”;
- the male Tenant was so close to him while he was yelling on December 20, 2020 that spit landed on the Landlord’s face;
- the male Tenant made no further threats;
- they reported the December 20, 2020 incident to the RCMP;
- the RCMP concluded that criminal charges were not warranted;
- on December 25, 2020 the female Tenant sent him a text message, which he construed as a threat;
- the female Tenant made no further “threats”;
- neither tenant has been physically violent;
- he has learned that the both the Tenants have criminal records;
- he has learned that the male Tenant has a criminal history involving violence; and
- the Landlord, and other people living on the property, are afraid of the Tenants.

The text message the Landlord considers to be threatening, which was sent on December 25, 2020, reads:

*When kindness fails which is rare. But sometimes does. I just pull out my mauchette with the word "kindness" carved into it and kill them with kindness. Either way kindness wins :-)*

### Analysis

Section 49(1) of the *Act* stipulates that a landlord can apply for an order that ends the tenancy on a date that is earlier than the tenancy would end if a notice to end tenancy were given under section 40 of the *Act* and the landlord may apply for an Order of Possession for the rental unit.

Section 49(2)(a) of the *Act* authorizes me to end the tenancy early and to grant an Order of Possession in any of the following circumstances:

- The tenant or a person permitted in the manufactured home park by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the manufactured home park
- The tenant or a person permitted in the manufactured home park by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant
- The tenant or a person permitted in the manufactured home park by the tenant has put the landlord's property at significant risk
- The tenant or a person permitted in the manufactured home park by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property
- The tenant or a person permitted in the manufactured home park by the tenant has 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 park
- The tenant or a person permitted in the manufactured home park by the tenant has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord
- The tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to manufactured home park.

Section 49(2)(b) if the *Act* authorizes me to grant an Order of Possession in these circumstances only if 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 to take effect.

I find that the incident on December 20, 2020 was highly inappropriate. In the event the Tenant continued to exhibit such behavior toward the Landlord or another person in the manufactured home park, I might conclude that the behavior would be grounds to end the tenancy. I am not convinced that this single incident constitutes sufficient grounds to end the tenancy. In reaching this conclusion I was influenced by:

- the types of “threats” made by the male Tenant, although highly inappropriate are the types of threats often made during the heat of an argument;
- the Tenant has not acted on any of the “threats”;
- it does not appear that the Tenant intended to spit on the Landlord during this verbal altercation; and
- the police did not conclude that charges were warranted.

I find that the text message the female Tenant sent on December 25, 2020 was also inappropriate, however I am not convinced that it constitutes sufficient grounds to end the tenancy. While this text message could be interpreted as a veiled threat, I find it is more likely an example of poor humor. It is difficult to interpret such a statement as a threat when it is accompanied by a smiling face emoji.

While I accept that the Landlord and others are afraid of the Tenants, I cannot conclude that fear is justified. Even if I accepted the Landlord's evidence that the Tenants have criminal records and the male Tenant has a history of violence, that is simply not grounds for ending a tenancy.

After considering all of the evidence presented by the Landlord, I am not satisfied that the Landlord has established grounds to end this tenancy pursuant to section 49(2)(a) of the *Act*. I therefore dismiss the application to end this tenancy early.

The Landlord retains the right to file an Application for Dispute Resolution to end this tenancy pursuant to section 40 of the *Act*.

As the Landlord has failed to establish the merit of the Application for Dispute Resolution, the application to recover the fee for filing the Application for Dispute Resolution is dismissed.

Conclusion

The Application for Dispute Resolution is dismissed in its entirety.

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