



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding GRAPPA INVESTMENTS CORPORATION and  
[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, FFT

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution ("Application") under the *Manufactured Home Park Tenancy Act* ("Act") to cancel a One Month Notice to End Tenancy for Cause dated June 17, 2021 ("One Month Notice"), and to recover the \$100.00 cost of his Application filing fee.

The Tenant and an agent for the Landlord, K.H. ("Agent"), appeared at the tele-conference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about it. Three witnesses for the Landlord were available to testify, but we only had time for one of the Landlord's witnesses, B.M., ("Witness"), to provide affirmed testimony.

During the hearing the Tenant and the Agent were given the opportunity to provide their evidence orally and to respond to each other's testimony. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Neither Party raised concerns regarding the service of the Application for Dispute Resolution or the documentary evidence. Both Parties said they had received the Application and/or the evidence from the other Party and had reviewed it prior to the hearing. This is with the exception of one piece of evidence from the Landlord, labelled, "L9a" and which is an email from [L.M.]. This was submitted to the RTB and served on the Tenant within six days of the hearing. However, Rule 3.14 states that evidence not submitted with the Application must be received by the Respondent and the RTB not less than 14 days before the hearing. Consequently, I advised the Parties that I would not be considering this piece of evidence in making my Decision.

### Preliminary and Procedural Matters

The Tenant provided the Parties' email addresses in the Application and they confirmed these addresses in the hearing. They also confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

At the outset of the hearing, I asked the Agent for the Landlord's name in this matter, as the Landlord identified on the Application was different than that in the tenancy agreement. The Agent advised me of the correct name of the Landlord in this matter; therefore, I amended the Respondent's name in the Application, pursuant to section 64 (3) (c) and Rule 4.2.

I also advised the Parties that pursuant to Rule 7.4, I would only consider their written or documentary evidence to which they pointed or directed me in the hearing. I also advised the Parties that they are not allowed to record the hearing and that anyone who was recording it was required to stop immediately.

At the start of the hearing, I directed the Parties to take notes when the other Party was testifying, and to not interrupt when another person was speaking. Unfortunately, I had to remind the Tenant about this practice on a number of occasions throughout the hearing. As a result, we had a little less time for the Parties to testify.

Section 48 of the Act states that if a tenant's application to cancel an eviction notice is unsuccessful and is dismissed, and I am satisfied that the eviction notice complies with the requirements under section 45, I must grant the landlord an order of possession.

### Issue(s) to be Decided

- Should the One Month Notice be cancelled or confirmed?
- Is the Landlord entitled to an Order of Possession?
- Is the Tenant entitled to recovery of the \$100.00 Application filing fee?

### Background and Evidence

The Parties agreed that the tenancy began on July 1, 2016, with a monthly rent of \$629.00, due on the first day of each month.

In the hearing, the Agent confirmed that the Tenant was served with a One Month

Notice that was signed and dated June 17, 2021. The Landlord submitted a copy of this One Month Notice, which has the rental unit address, and which was served by posting it to the door on June 17, 2021. The One Month Notice has an effective vacancy date of July 31, 2021, and it was served on the grounds that the Tenant significantly interfered with or unreasonably disturbed another occupant or the landlord; seriously jeopardized the health or safety or lawful right of another occupant or the landlord; and adversely affected the quiet enjoyment, security, safety, or physical well-being of another occupant. The Landlord submitted a witness statement by [S.B.] verifying the service of the One Month Notice on the Tenant.

In the hearing, the Agent testified as to why I should confirm the One Month Notice, rather than cancel it, as the Tenant has requested. She said:

As stated in the One Month Notice, the details of cause reads: The Tenant has been given many notices regarding conduct in the community. Driving drunk in community. Tried to [solicit] another tenant to give false complaints on unit #9 to have them removed from the park. Calling the police on number nine when there were no issues. Harassing other tenants in the park when intoxicated. Calling the manager many times while intoxicated; giving false reports on other tenants. The Tenant having his side door open and fondling himself in full view on unit #11.

The Agent then referred to complaints she has received from other occupants of the park, and which she submitted to the RTB and the Tenant. I have considered these documents, except for the one that was not submitted or served to the Tenant on time.

The Tenant responded to the Agent, as follows:

I'll address allegations, which are all lies. There is no court of law here that we can charge someone with perjury. I am the one with the repercussions. They're accusing me of things I didn't do. I am very angry about this and have been for some time. I want to get on with the allegations.

The Agent spoke about some of the allegations made by other tenants of the park. She said:

[Document] L1 says that on September 29, 2020, Y.M. said the following:

On September 29, 2020, around 11:00 pm, I was standing on my front porch talking to my neighbour [R.]. She was on the stairs facing me and I was facing her on the top of my stairs. [The Tenant] opened his back door

which faces my entrance and was in his underwear with his penis hanging out. I went OMG Eew! [R.] asked me why I was saying that and I told her to look at [the Tenant] he is standing there with his penis hanging out of his underwear. She said 'no, I don't want to look'. I yelled at him to go away and he did. I called the police, and they came and took my statement and then they spoke with him. File # [number provided].

The Tenant responded with:

I don't ever believe my mother lied to me. Women have this power that ... women are liars, cheats, thieves; sometimes they burn their own babies. There are no pictures of me standing there in my underwear - this is completely false. Women can lie and have been known to be liars and thieves. This was my sister's birthday. I called my sister and wished her happy birthday that day.

The Agent called her Witness and asked him about a letter he had submitted to the Landlord on June 9, 2021. She said: "Please explain to us what occurred that night."

The Witness said:

At approximately 10:30 p.m. - I watch a movie at 9 o'clock - but at 10:30 I hear rumbling outside and a bang, bang on the front door. I see [the Tenant's] car there. I open the door; he was quite intoxicated. I smelled his breath, he was slurring words, asking me if I'm trying to gang up on him... I said [Tenant], 'no'; he said 'I've seen you with [Y.]' I said [Y.] is a friend of mine. He said 'there's no problem, I believe you.' I said I'd drive him back to his place and walk back to mine, but he said 'no, I'm fine.'

I then asked the Witness how he remembered when this happened, and he said it was because he made a written complaint about it that same day.

The Tenant responded:

He said he was going to watch a movie at 9:00 not at 10:30. There are very few people who can determine who is intoxicated; the police – they have training and can take breath samples. Does [the Witness] have any qualifications? I can have a couple of beers and that smell is on my breath, and what does that prove? So, he can't say that. [Y.] has also said I've been intoxicated and drinking in public. [The Agent] can't prove these allegations.

I offered the Parties an opportunity to make any last statements at the end of the hearing, and the Agent went first, because she has the burden of proof.

The Agent reviewed the Landlord's documentary submissions, labelled "L1 to L14" (with the exception of "L9a", which was not served on time). I have reproduced parts of these submissions below, and my reproductions are as the documents were written.

L1 was a statement from [Y.M.] noted above, in which she claimed the Tenant had exposed himself in front of her and another tenant.

The Agent said that L2 is a warning letter dated September 15, 2020, from the Agent to the Tenant labelled "Warning Letter". The Agent's statements in this letter include:

I have received several complaints regarding your behavior in the park. It was said that you have been out late into the morning walking around your unit in a short type of coat with no undergarments on. This would be perceived as indecent exposure and is not permitted in the park. It has also come to my attention that you have been seen touching unit #9 by banging and tapping on the side of their home. This is a form of harassment. You will cease in doing so.

The Agent goes on in this letter to inform the Tenant about park rules, and section 9 of the *Manufactured Home Park Tenancy Act*, which requires landlords to provide quiet enjoyment to all tenants. She went on to say: "This means reasonable privacy, freedom from unreasonable disturbance...." The Agent then welcomed the Tenant to contact her by email or telephone during office hours.

The Agent referred me to her evidence, L3, which is from [N.C.]. Here, [N.C.] complained that the Tenant repeatedly calls the police about her and her partner fighting, although, the Tenant's complaints are unfounded. In this complaint, [N.C.], said she told the police officer:

...I said don't tell me [the Tenant] phoned again and said we were fighting loudly again. The police looked in his computer and noticed that [the Tenant] phones a lot in the past and the calls were false.

The Agent referred to the Landlord's evidence labelled "L4", which she said contains a letter labelled "Warning Letter" and which is dated May 19, 2021. This letter is from her to the Tenant, and includes the following:

I spoke with you personally on Tuesday, April 20, 2021 around 7:30 pm regarding phoning me with complaints while intoxicated. Not only is this rude, there was no emergency that needed my attention after work hours.

You called me three times on May 16, 2021 regarding unit #9. You seemed to be intoxicated each time you called. I have kept the voice mails that you left me as evidence. This behavior is unacceptable, and I will not tolerate it anymore.

You consistently call me after hours and on weekends with minor complaints regarding unit #9. This is a form of harassment towards me. My work hours are Monday to Friday from 8:00 am to 4:30 pm. Please abide by these hours. If you continue to keep up with the calls after this letter a Notice to End Tenancy may happen.

The Agent mentioned her evidence "L5", which is a handwritten letter dated May 20, 2021 to the Agent from [P.W.]. In this letter, [P.W.] said that she and her husband attended the park, as they had been hired to clean one of the units. She said:

[The Tenant] came out and got very nasty with me becoming verbally abusive and demanded that I leave the property. I told him that I was allowed to be here to do the work, as was my spouse [D.] for that day. I requested that he go back inside his trailer. He continued to be argumentative. ...

The Agent said that L6 includes a complaint alleging that the Tenant damaged someone's vehicle. Evidence L7 was a letter dated May 29, 2021, from [Y.M.] to the Agent, in which [Y.M.] said that she learned that the Tenant was saying that she was trying to "blackball" him, and was spreading lies about him. She said: "I am so fed up with this man and am starting to worry where his paranoia may lead him."

The Agent said that L8 is an email she received from [L.M.], dated June 3, 2021. In this email, [L.M.] states that on May 31, 2021 the police arrived at her place at approximately 10:30 and asked if I had heard yelling coming from [N.] and [L.s] place. She said:

I told him I had not and that I had been out there for over an hour and in fact the neighbourhood had been very quiet. ...

This seems to be an ongoing issue, someone calling the police to make a noise complaint when in fact there is no noise. I hope you are able to rectify this

situation as it seems a waste of valuable resources that could be put to better use besides fake noise complaints.

L9 is a handwritten letter the Agent said that she received from the Witness, and which is dated June 9, 2021. The Witness said the following in this letter:

I am writing this letter, regarding an incident that happened on May 28, 2001. I was getting ready to watch a movie at 9 pm on Netflix as I do every nite there was a knock at my front door. When I opened the door, it was [the Tenant] from the trailer court, next to [Y.M.]. He had his car running out front of my unit. I noticed that he seemed quite impaired. I asked him what was going on and he asked me if I'm trying to blackball him. Well he said he saw me on [Y's] front porch as I was delivering her a package. He said maybe I'm paranoid and not thinking straight. I did not appreciate him bothering me at 9 pm intoxicated. .

[emphasis in original; reproduced as written]

The Agent wrote L10, which is dated July 2, 2021, and which relays additional complaints she has received from other tenants of the manufactured home park. In this document, the Agent said she called a non emergency police number to discuss the Tenant's behaviour. She said she ultimately had a long conversation with an officer who attended the Tenant's residence thereafter. The Agent said that she received a call from [Y.M.] who said that a police officer knocked on the Tenant's open door, that the Tenant came to the door and that the police officer "...shouted at him to go put pants on." [Y.M.] went on to say:

[The Tenant] then was arguing with the officer. [The Tenant] was intoxicated at the time. The officer spoke with him and then left.

The Agent said at the bottom of this document, that she had let [Y.M.] read and sign it, as proof that an officer came to the Tenant's door and what was said.

The Agent included a handwritten letter from the Tenant as the Landlord's evidence "R1". In this letter dated June 21, 2021, the Tenant comments on the One Month Notice. He states:

I am disputing this notice on the ground that [the Agent] has lied and made many mistakes on this notice.

-[the Agent] did not check the appropriate box at the top of this notice.

-she typed the wrong postal code.

- she stated that I was driving drunk. She was not in the park at that time. Nor does she have a blood alcohol reading.
- she stated that I was fondling myself in full view of unit #11
- all of her statements are hear-say, which is not allowed in B.C. Courts.
- she also typed – see attached complaints which she did not give me a copy of. How can I defend myself if I do not know all the complaints. The burden of proof is on [the Agent].

In document L11 the Agent responded to the Tenant's comments in R1, as follows:

- Yes, I forget to check off the box at the top stating that it was a 'Manufactured Home Site, Manufactured Home Park Tenancy Act.'
- I incorrectly typed in the wrong postal code. The postal code is [postal code], but the address is correct.
- Please see L9 and L7 of my evidence that clearly shows that [the Tenant] was driving intoxicated in the park.
- See L12 – L15 is shows Unit #11 looking onto unit #10's door
- - I have sent [the Tenant] 2 letters, L2 and L4 stating his behaviour in the park.

I believe that I have addressed [the Tenant's] evidence letter. The fondling of himself came as a verbal complaint from Unit #11.

The Agent also referred to photographs she had submitted, with written comments on the photos explaining their purpose. For instance, one labelled "14" is described as: "Sitting on Unit #11 porch looking on Unit #10 side door."

The Tenant's last statements in the hearing included :

L5 – a girl - maybe [P.] - I've never met her or talked to her. She can't even identify me. Since I've moved here, [Y.] and I have been good neighbours until [M. and N.] were evicted. She went to the roadway and screamed like a banshee. Since that time, they were evicted in April, the letters to [the Agent] ... What [the Agent] has been accusing me on.

[Y.] has been soliciting - she has solicited me to evict these people in number nine and [the Agent] shut her down. Since they were removed from statements, for at least 14 phone calls to the police because of the noise. [L.] witnessed them driving his car without a driver's license, [Y.] has been encouraging these people



to write these lies to blackball me to make me look bad. I don't know why [the Agent] had to it.

There's no chance to rebut them. We can't cross-examine and the burden is still on [the Agent]. I'm fighting for my life here. This whole thing has started - [Y.] has been a chef, and she made meals for [the Agent], and whatever [Y.] wanted she gets. She's solicited all these people, as she solicited me at one time. I have done nothing wrong here when I called [the Agent] about the noise. I still drive a dump truck and I'm 70 years old. I have to have eye surgery on my right eye. This is too much for me to bear and it's all lies. Intoxication has to be left for the specialists and a breathalyzer.

That's truthful my hand is on the bible as we speak.

The Tenant submitted 15 pages of handwritten notes to support his position in this proceeding. However, most of the notes the Tenant wrote involve accusations against other occupants of the manufactured home park, rather than his response or rebuttal of their evidence.

### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

Section 28 of the Act sets out a tenant's right to quiet enjoyment of the rental unit, and states that tenants are entitled to "reasonable privacy, freedom from unreasonable disturbance, exclusive possession of the rental unit, subject only the landlord's right to enter the rental unit in accordance with section 29, and use of the common areas for reasonable and lawful purposes, free from significant interference."

Policy Guideline #6 ("PG #6") clarifies a landlord's obligation under section 28, including the following:

A landlord is obligated to ensure that the tenant's entitlement to quiet enjoyment is protected. A breach of the entitlement to quiet enjoyment means substantial interference with the ordinary and lawful enjoyment of the premises. This includes situations in which the landlord has directly caused the interference, and situations in which the landlord was aware of an interference or unreasonable disturbance, but failed to take reasonable steps to correct these.

Temporary discomfort or inconvenience does not constitute a basis for a breach of the entitlement to quiet enjoyment. Frequent and ongoing interference or unreasonable disturbances may form a basis for a claim of a breach of the entitlement to quiet enjoyment.

In determining whether a breach of quiet enjoyment has occurred, it is necessary to balance the tenant's right to quiet enjoyment with the landlord's right and responsibility to maintain the premises.

A landlord can be held responsible for the actions of other tenants if it can be established that the landlord was aware of a problem and failed to take reasonable steps to correct it. .

[emphasis added]

I find the evidence before me predominantly contains complaints about the Tenant's behaviour, including indecent exposure, driving after drinking, and repeatedly calling the police on other tenants without sufficient cause. The Tenant denies these accusations.

He did not deny having consumed alcohol before driving to another tenant's unit; however, he said that he is allowed to drive after consuming a couple beers. The Tenant argues that only a police officer or someone with sufficient training and a breathalyzer can determine if another person is drunk or not. However, I find it consistent with common sense and ordinary human experience that generally, adults can observe behaviours in another person which indicate that the other person has been drinking too much alcohol. The complainants in this case noted the smell of alcohol on the Tenant's breath and that the Tenant was slurring his words. Given that this evidence is repeated by different people at different times, I find it is more likely than not true.

When I consider all the evidence before me, overall, I find that the Landlord has met their burden of proof on a balance of probabilities in establishing that Tenant has unreasonably disturbed other tenants of the manufactured home park on a regular basis. I also find that the One Month Notice is consistent with section 45 of the Act, as to form and content. I find that the errors on the One Month Notice pointed out by the Tenant were minor in nature and were not fatal to the validity of the One Month Notice.

I find that the Landlord has provided sufficient evidence to support their burden of proof on a balance of probabilities. I, therefore, find that the Landlord is entitled to an Order of Possession of the rental unit, pursuant to section 48 of the Act. I grant the Landlord an

**Order of Possession** pursuant to section 48 of the Act, which will be **effective two days after service** on the Tenant, since the effective date of the One Month Notice has passed. The Tenant's Application is dismissed wholly without leave to reapply, pursuant to section 62 of the Act.

### Conclusion

The Tenant is unsuccessful in his Application to cancel the One Month Notice, as the Agent provided sufficient evidence to meet the Landlord's burden of proof on a balance of probabilities.

Pursuant to section 48 of the Act, I grant an **Order of Possession** to the Landlord effective **two days after service of this Order** on the Tenant. The Landlord is provided with this Order in the above terms and the Tenant must be served with **this Order** as soon as possible.

Should the Tenant fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: October 25, 2021

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Residential Tenancy Branch