



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **OPL, FFL**

### Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- An order of possession under a Two Month Notice to End Tenancy for Landlord's Use ("Two Month Notice") pursuant to sections 48 and 55.
- Authorization to recover the filing fee for this application pursuant to section 72.

The hearing was conducted by teleconference. The landlord attended with the lawyer SB ("the landlord"). The landlord was given the opportunity to make submissions as well as present oral and written evidence.

The tenant did not attend the hearing. I kept the teleconference line open from the time the hearing was scheduled for 33 minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant had been provided.

The landlord testified the tenant was served with the Application for Dispute Resolution and supporting documents pursuant to the *Act* by registered mail sent on June 1, 2021. The landlord provided the receipt with the Canada Post tracking number for the registered mail. Pursuant to the landlord's testimony and sections 82 and 83, I find the tenant was served on June 1, 2021, the 5<sup>th</sup> day after mailing.

Issue(s) to be Decided

Is the landlord entitled to the following relief?

- An order for possession pursuant to section 48(2)(b);
- Authorization to recover the filing fee for this application pursuant to section 65.

Background and Evidence

The landlord provided uncontradicted testimony as follows as the tenant did not attend the hearing.

The landlord purchased the manufactured home on January 30, 2017. The landlord submitted comprehensive supporting documents including a copy of the Bill of Sale dated Jan 30, 2017, a copy of the BC Registry Transfer Verification confirming registration, and Statement of User Rates in his name from the municipality.

The tenant resided in the manufactured home at the time of purchase. There is no written tenancy agreement. The landlord expected the tenant to vacate the unit.

The landlord issued a previous Two Month Notice on January 31, 2017 requesting the tenant vacate the manufactured home on April 15, 2017. A copy of the Notice was submitted which is in the standard form.

The tenant disputed the Notice and an RTB hearing was held. On March 3, 2017, an Arbitrator submitted a Decision in which they declined jurisdiction as the tenant and the previous owner of the manufactured home were engaged in BCSC proceedings in which the tenant sought a determination as to whether she has a beneficial ownership interest in the manufactured home. A copy of the Decision, reference to the file number appearing on the first page, was submitted by the landlord.

The landlord stated that he is not a party to the BCSC proceedings which he believed have been inactive since 2012.

The tenant continues to occupy the manufactured home. The tenant does not pay rent. The landlord has paid all expenses associated with the manufactured home including taxes, utilities, and insurance.

The tenant has refused all the landlord's efforts to inspect or enter the manufactured home. On July 22, 2019 the tenant responded to the landlord's request to enter with a signed written refusal.

The landlord issued a Two Month Notice on June 1, 2021, a copy of which was submitted. The reason for the issuance of the Notice was intended occupancy by the landlord's son. The effective date is August 15, 2021. The landlord submitted evidence of service by registered mail on June 1, 2021 thereby effecting service 5 days later, that is on June 6, 2021. The landlord submitted a copy of the receipt which included the tracking number. The tenant has not disputed the Notice or submitted evidence.

The landlord requested an Order of Possession and reimbursement of the filing fee of \$100.00.

### Analysis

As a preliminary matter, I find I do not have jurisdiction to hear this application.

I find the person referenced as the tenant is not a "tenant" within the meaning of the Act.

The Act states in section 1:

"tenancy" means a tenant's right to possession of a rental unit under a tenancy agreement;

That Act also states:

"tenancy agreement" means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit;

I find the tenant does not have a right to possession or license to occupy. There is no agreement between the parties. No rent is paid. Although there is an occupancy, I find it is not a tenancy.

### Conclusion

As I do not have jurisdiction under the Act with respect to this application, the application is dismissed without leave to reapply.

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

Dated: November 19, 2021

---

Residential Tenancy Branch