



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC, FFL

### Introduction

This hearing was scheduled to convene at 9:30 a.m. on December 14, 2021 by way of conference call concerning an application made by the landlord seeking an Order of Possession for cause and to recover the filing fee from the tenant for the cost of the application.

The landlord attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenant joined the call.

The tenant attended at 9:44 a.m. after the landlord's testimony had commenced. The tenant also gave affirmed testimony and the parties were given the opportunity to question each other.

The landlord testified that all evidence of the landlord was personally handed to the tenant, all of which has been reviewed and is considered in this Decision.

### Issue(s) to be Decided

Has the landlord established that the One Month Notice to End Tenancy for Cause was issued in accordance with the *Manufactured Home Park Tenancy Act*?

### Background and Evidence

**The landlord** testified the landlord took over the manufactured home park in May, 2021 and is not certain when the tenancy began, and the landlord is not able to locate a

tenancy agreement. However, rent in the amount of \$453.00 is payable on the 1<sup>st</sup> day of each month and there are no arrears.

On July 23, 2021 the landlord served the tenant with a One Month Notice to End Tenancy for Cause (the Notice) by leaving it at the door of the tenant's manufactured home. The landlord testified that if the tenant or occupants see the landlord, they don't answer the door, and a number of people live there off and on. A copy of the Notice has been provided for this hearing and it is dated July 23, 2021 and contains an effective date of vacancy of August 31, 2021. The reason for issuing it states:

- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord further testified that on July 9, 2021 the landlord gave the tenant written notice to clean up the yard, carport and back yard, as well as the front porch. It also states that the white van must be parked in the driveway, not on the lawn. A copy of the letter has been provided for this hearing and it states that the tenant must comply by July 23, 2021.

During the first week of May when the landlord got to the park, the landlord talked to the tenant saying that the yard had to be cleaned up and to eventually insure the van. Written notice was also given on June 26, 2021. The landlord went to talk to the tenant and on July 6 sent a letter stating that the tenant has ignored requests. Dated photographs have also been provided as evidence.

The tenant started to clean up the yard a little bit eventually after receiving the One Month Notice to End Tenancy for Cause, but it is still not cleaned up.

The tenant disputed the Notice and a hearing was scheduled for September 16, 2021, and a copy of the resulting Decision has been provided for this hearing. It shows that the landlord did not attend the hearing. A finding was made by the Arbitrator that the landlord had not been served with the Notice of Dispute Resolution Proceeding and the tenant's application was dismissed with leave to reapply, but did not extend any applicable time limits under the legislation.

The landlord testified that the tenant and everyone who seems to live in the tenant's manufactured home have pretty much broken every rule of the park at one time or another. Further, the very next day after the landlord told the tenant to not park on the lawn, 4 cars were parked on the lawn.

**The tenant** testified that due to an infection in her leg the tenant was admitted to hospital in February, 2021 and was there until the end of April. The tenant was home for a week and then back in hospital again, and nearly lost her leg. The tenant was totally bed-ridden, unable to take care of the yard so had a niece help. The niece didn't move in but stayed to take care of the tenant.

The tenant has been in the park for nearly 40 years, and there is a cement pad, not a lawn. The tenant told the landlord that. The tenant has always parked there and was grandfathered in to have a motor home park there. The tenant's mother owns half the trailer and is now in a home with degenerative muscle disease. The tenant did everything the tenant could to keep the yard in satisfactory condition until no longer able to.

The tenant further testified that tenants are allowed to change tires and oil. The tenant does not have a copy of the Rules and Regulations but a manager told the tenant that the tenant was not grandfathered in, but the tenant's mother was for the trailer being parked. Photograph #5 of the landlord's evidence shows 3 vehicles, but the location is not part of the lawn; it's part of the parking that the tenant always had because the driveway is paved. Now the tenant is told that no more than 2 vehicles are allowed but there's a lot more room than that.

### Analysis

The *Manufactured Home Park Tenancy Act* states that:

**40 (4)** A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

(5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the manufactured home site by that date.

In this case, I accept the undisputed testimony of the landlord that the One Month Notice to End Tenancy For Cause was served on July 23, 2021 by leaving it at the door of the tenant's manufactured home, which is deemed to have been served 3 days later, or July 26, 2021. The tenant disputed it, but the application to cancel it was dismissed with leave to reapply. That means that the tenant ought to have disputed it again, even

if the tenant was out of time to do so, and perhaps more time than prescribed may have been granted by an Arbitrator due to the tenant's circumstances. However, the tenant didn't dispute it a second time. Therefore, I find that the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

I have reviewed the Notice and I find that it is in the approved form and contains information required by the *Act*. Therefore, I find that the landlord is entitled to an Order of Possession.

Since the effective date of vacancy has passed, I grant the Order of Possession effective on 2 days notice to the tenant.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$100.00 filing fee. I grant a monetary order in favour of the landlord in that amount which the landlord may file for enforcement in the Provincial Court of British Columbia, Small Claims division as a judgment.

### Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 60 of the *Manufactured Home Park Tenancy Act* in the amount of \$100.00.

This order is final and binding and may be enforced.

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: December 15, 2021

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Residential Tenancy Branch