



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 447185 B.C. LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      **CNC, OLC, LRE, FFT**

### **Introduction**

Pursuant to section 51 of the *Manufactured Home Park Tenancy Act* (the “Act”), I was designated to hear an application regarding the above-noted tenancy. The tenant applied for:

- cancellation of the One Month Notice to End Tenancy for Cause (the Notice), pursuant to section 40 of the *Act*;
- an order for the landlord to comply with the Act, the Regulation and/or tenancy agreement, pursuant to section 55 of the *Act*;
- an order to restrict or suspend the landlord’s right of entry, pursuant to section 63 of the *Act*; and
- an authorization to recover the filing fee for this application, pursuant to section 65 of the *Act*.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The corporate landlord was represented by its agents with agent RJ primarily speaking (the “landlord”).

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

As both parties were present service was confirmed. The parties each testified that they received the respective materials and based on their testimonies I find each party duly served in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Should the 1 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Is the tenant entitled to any of the other relief sought?

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

This tenancy began in 2019. There was a previous hearing regarding this tenancy on August 21, 2020 under the file number on the first page of this decision. That hearing dealt with the tenant's application seeking identical relief to the present application. At the earlier hearing the presiding arbitrator assisted the parties in settling their dispute and wrote:

Pursuant to section 56 of the Act, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute regarding this application only.

Both parties agreed to the following final and binding settlement of all issues listed in this application for dispute resolution:

01. The Notice dated July 14, 2020 is cancelled. The tenancy will continue until ended in accordance with the Act.
02. The tenant will complete the renovations on deck and the siding of the manufactured home by December 31, 2020;
03. The tenant will make sure the buckets on the roof of the manufactured home are safe to remain there and will remove them by December 31, 2020;
04. The tenant will cover the pieces of the vehicles in the yard with a tarp or remove them from the property by August 22, 2020;
05. The tenant will make improvements to the yard.

The landlord submits that the tenant did not fulfill the terms of the settlement within the timelines agreed upon or at all. Specifically, the landlord testified that the tenant has not completed the renovations on the deck and the siding of the manufactured home to a reasonable standard, the tenant has placed additional items on the roof of the manufactured home, has failed to cover up or remove the pieces of vehicles in the yard and has failed to make improvements to the yard.

The landlord issued a 1 Month Notice dated October 16, 2021. The reason provided on the notice for the tenancy to end is:

Non-compliance with an order under the legislation within 30 days after the tenant received the order or the date in the order.

The landlord provided photographs of the rental site taken in November 2021 as well as a video recording of the site taken on December 13, 2021 as evidence that the tenant has failed to accomplish the required work to the site.

The tenant confirmed the terms of the settlement agreement of August 21, 2020 and that they had received the decision recording the terms. The tenant further confirmed receipt of the 1 Month Notice of October 16, 2021.

The tenant submits that they have accomplished all the required work on the rental site and there was no basis for the issuance of the 1 Month Notice. The tenant disputes that the video and photographic evidence of the landlord show work being required and says that all work was accomplished. The tenant notes that the terms of the settlement does not specify the quality or standard of the work to be done. The tenant testified that they had an inspection approve of all work performed but did not provide any documentary evidence of approval by a third party.

The tenant provided lengthy testimony and written submissions regarding their opinion of the landlord's complaints as being meritless and characterizing the landlord as "whining". The tenant testified that they believe the landlord has been harassing them, that their testimony is false and infringing upon their right to quiet enjoyment of the rental site.

### Analysis

In accordance with section 40(4) of the Act, a tenant may dispute a 1 Month Notice within 10 days of receipt by filing an application for dispute resolution. When a tenant applies to dispute a notice to end the onus is on the landlord to establish on a balance of probabilities the reasons for ending the tenancy as stated on the notice.

The parties agree that there was a settlement agreement arising from the earlier hearing on August 21, 2020. Section 56 of the Act provides that:

- 56** (1) The director may assist the parties, or offer the parties an opportunity, to settle their dispute.
- (2) If the parties settle their dispute during dispute resolution proceedings, the director may record the settlement in the form of a decision or an order.

Accordingly, I find that the terms of the settlement agreement recorded by the arbitrator constitutes a binding decision and enforceable order. It is clear from the submissions of both parties that they intended the agreement to constitute a full, final and binding resolution of the issues in dispute at the earlier hearing.

Based on the totality of the evidence I am satisfied that the landlord has established, on a balance of probabilities, that there is a basis for the issuance of the 1 Month Notice and for this tenancy to end. I find the condition of the rental site shown in the photographs of both parties, the video footage of the landlord and described in the testimonies to fall short of the agreed upon work recorded in the earlier decision. I find it evident that the deck and the siding of the manufactured home fall short of what would reasonably be characterized as completed renovations. Materials are placed haphazardly around the manufactured home and it is not evident if they have been installed or simply placed adjacent to the home. Given the angles at which the sidings lie it is reasonable to conclude that the materials have either not been installed properly and renovations have not been completed.

Similarly, I find there are materials left on the rooftop and throughout the yard of the site. I find the tenant's characterization of the condition of the site as fine and acceptable, to not be a reasonable interpretation of the photographic evidence. The preponderance of evidence of the parties show an unkempt site with obvious deficiencies in the areas that were to be repaired or renovated.

I do not find the tenant's characterization of the landlord as "whining" to be reasonable or supported in the evidence. I find that the landlord has noted clear, unreasonable deficiencies that are in breach of the earlier terms of settlement. I find the issues noted by the landlord to be reasonable, cogent and in breach of the requirements for repairs and renovations agreed to by the parties. I find the tenant's submissions that they have performed all required work in accordance with the earlier agreement to not be supported in the materials and an unreasonable interpretation of the minimal work that can be seen in the evidence.

I find the landlord has established the basis for the 1 Month Notice on a balance of probabilities and consequently dismiss the tenant's application and issue an Order of Possession in the landlord's favour. As the effective date of the notice has passed I issue an Order effective 2 days after service on the tenant.

As this tenancy is ending I find no need to make a finding on the balance of the tenant's application and dismiss without leave to reapply.

### Conclusion

The tenant's application is dismissed in its entirety without leave to reapply.

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenant or any occupant on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: February 28, 2022

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Residential Tenancy Branch