



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A participatory hearing, via teleconference, was held on December 8, 2022. The Tenant applied for the following relief, pursuant to the *Manufactured Home Park Tenancy Act* (the "Act"):

1. cancellation of the Landlord's 1 Month Notice to End Tenancy for Cause (the Notice) pursuant to section 40

Both parties attended the hearing and provided affirmed testimony. Both parties confirmed receipt of each other's evidence, and no service issues were raised.

Both parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue to be Decided

- Is the Tenant entitled to have the Landlord's Notice to End Tenancy cancelled?
  - If not, is the Landlord entitled to an Order of Possession?

### Background and Evidence

The Tenant acknowledged receipt of the Notice on or around June 28, 2022. The Notice was issued for the following reason:

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

Under the Details of Cause section, the Landlord stated that this Notice was issued because the Tenant failed to comply with an Order made at a previous hearing with respect to removing his RV from the home site.

The Landlord explained that in February 2022, the parties had a hearing and a decision was rendered regarding the Tenant's RV. The file number was provided by the Landlord. More specifically, the decision and Order made after the February hearing states the following:

*I find the tenant must not have their RV in their driveway and accordingly make the following order pursuant to section 55(3) of the Act:*

***I ORDER the tenant to remove their RV from the Park property no later than Sunday, February 27, 2022 by 5:00 p.m. Pacific Time.***

*Failure to comply with my order may result in the landlord issuing a 1 Month Notice to End Tenancy for Cause (1 Month Notice), citing the following cause:*

- *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 stated that the Tenant removed his RV following that hearing. However, he brought the RV back and parked it beside his manufactured home on June 22, 2022. The Landlord provided photos of the Tenant's RV, each day, and it shows the Tenant had his RV parked beside his home for around 6 days, and only moved it after the Landlord made it clear they would be issuing a 1 Month Notice.

The Tenant acknowledged that he brought his RV back to his home site. He stated he didn't park it there overnight, but then stated he did, and was unclear as to when he parked his RV at his home site. The Tenant stated he did not intend to park it at his home site long term, and he stated he has issues with his tires which delayed him from getting the vehicle off the home site. The Landlord stated they do not believe there was any issue with the tires, as they were there taking photos of the RV every day, at various times, and the tires were all full of air.

The Landlord stated they believe the Tenant is being difficult, as they assert he has been for many years, and they feel he does not respect the park rules. The Landlord also stated that even if the Tenant brought his RV back to his home site, to park it while he fixed the tires, he is still violating the park rules because they prohibit people from working on their vehicles in their driveway.

The Tenant stated he has photos of his flat tires but he did not provide any of these photos into evidence.

### Analysis

In this decision, I will not attempt to resolve all evidentiary conflicts, and will focus on evidence and testimony as it relates directly to my findings with respect to whether there are sufficient grounds to end the tenancy.

In the matter before me, the Landlord has the onus to prove that the reasons in the Notice are valid. I note in civil law matters such as these, the standard of proof is based on a balance of probabilities, not the criminal court standard of proof beyond a reasonable doubt.

The Landlord has issued the Notice, under section 40 of the Act, under the following ground:

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

The Tenant received the Notice on June 28, 2022, and filed to dispute it June 29, 2022.

I have reviewed the testimony and evidence on this matter. I note the Tenant appears to have initially complied with the Order made following the last hearing, with respect to moving his RV out of his driveway and away from his home site. However, the Tenant brought the RV back on June 22, 2022. The Tenant does not refute bringing the RV back on that date. The Landlord stated that the Tenant parked it there June 22 – June 27, 2022, and they provided numerous photos corroborating this (with time stamps). I note the Landlord asserts that the Tenant parked his RV in his driveway, without moving it elsewhere at night, for around 6 days. The Tenant initially stated he did not park it there overnight from June 22-27, 2022, but later stated he did. Ultimately I found the Tenants statements on this matter were unclear, and I have assigned them little weight. I find it more likely than not that the Tenant parked his RV on June 22, 2022, and did not move it elsewhere for at least 6 days. Further, I note there is no evidence to support that

there was an issue with the tires on the RV which would have prevented it from being moved, especially given the Landlord provided photos showing the RV tires appeared normal.

The arbitrator at the previous hearing clearly stated the Tenant “*must not have their RV in their driveway*”. Further, the arbitrator Ordered the RV to be removed. I note there is no expiration date on that Order. Ultimately, I find the Tenant was in violation of that Order when he left his RV parked in his driveway for at least 6 days in June 2022. I

As such, I find the Landlord has sufficient cause to issue the Notice. The Tenant’s application to cancel the Notice is dismissed. The tenancy is ending, under the Notice, as described below.

Given my findings on this matter, it is not necessary to consider the other grounds listed on the Notice.

Under section 48 of the *Act*, when a tenant’s application to cancel a Notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 45 regarding form and content, I must grant the landlord an order of possession. Section 45 of the *Act* requires that any notice to end tenancy issued by a landlord must be signed and dated by the landlord, give the address of the home site, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

I find that the Notice complies with the requirements of form and content. The Landlord is entitled to an order of possession. I find the Landlord is entitled to an order of possession effective **December 31, 2022**, after service on the Tenant.

### Conclusion

The Tenant’s application to cancel the Notice is dismissed.

The Landlord is granted an order of possession effective **December 31, 2022**, after service on the Tenant. This order must be served on the tenant. If the Tenant fails to comply with this order the Landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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 9, 2022

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Residential Tenancy Branch