



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

A matter regarding PINEWOOD MH PARK INC  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      CNC, FFT

### **Introduction**

On 13 January 2023, the tenant applied to the Residential Tenancy Branch [the 'RTB'] for Dispute Resolution. The tenant asks me for the following orders against the landlords.

1. Cancel a one-month Notice to End Tenancy for cause [the 'Notice'].
2. Reimbursement for the \$100.00 filing fee for this application.

The tenant appeared at the hearing on 20 March 2023. The landlords also appeared, by way of an agent.

### **Preliminary Issue**

Did the tenant receive copies of the documents that the landlords relied upon at this hearing?

The landlords had several documents that they wanted to refer to at this hearing. In particular, there were several letters of complaint about the tenant.

But the tenant objected to the landlords referring to these documents. The tenant said that they never received copies of these documents.

The landlords told me that they sent copies of these documents to the tenant *via* registered mail on 30 January 2023 (almost two months before this hearing). The landlords provided a receipt of having paid for registered mail, and the receipt showed the tenant's address as depicted on their tenancy agreement with the landlords.

I find that the landlords successfully served the tenant with copies of the documents and will consider them as part of the landlords' evidence at this hearing.

### Background

In 2021 the tenant began renting a manufactured-home site in the landlord's manufactured-home park [the 'Park'].

### Issues to be Decided

The Notice sets out four bases to end this tenancy. I have re-phrased these into four questions for me to answer:

1. Has the tenant significantly interfered with, or unreasonably disturbed, another occupant?
2. Has the tenant seriously jeopardized the health or safety or lawful right of another occupant?
3. Has the tenant put the landlord's property at significant risk?
4. Has the tenant allowed an unreasonable number of occupants in the unit?

### Disturbance of other Occupants

Has the tenant significantly interfered with, or unreasonably disturbed, another occupant of the Park?

In other words, has the tenant has been doing things that prevent the other occupants of the Park from quietly enjoying their rental sites?

But what does it mean to 'quietly enjoy'?

To help me answer this question, I will look at a case from the Supreme Court of British Columbia [the 'BCSC']. This is because the BCSC can help define for me what is meant by 'quiet enjoyment'. Also, what the BCSC decides is the law I must follow.

The BCSC summarised 'quiet enjoyment' in a case entitled, *Heckert v. 5470 Investments Ltd.*, 2008 BCSC 1298. In that case, the BCSC reminded us of the following:

- 'Quiet enjoyment' means being able to, 'use the premises for all of the usual purposes incidental to occupation.'
- A breach of quiet enjoyment requires proof of a substantial interference with this use.
- Substantial interference is more than, 'Mere temporary inconvenience...'

And the RTB have issued a guideline regarding quiet enjoyment. This guideline builds on what the BCSC have said. The guideline reads:

'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.'

Considering the above, I'll ask myself: Have the landlords proved that the tenant...

1. probably interfered with the other occupants' use of their rental sites; and, if so,
2. that such interference was frequent and ongoing?

So, what is it that the landlords say the tenant has done?

Last March the landlords wrote a warning letter to the tenant [the 'Warning']. As part of this warning, the landlords cited, 'multiple complaints of a constant stream of traffic going to your residence at all hours of the day and night... some of these vehicles exceeding the posted speed limit... This has significantly interfered with and unreasonably disturbed tenants and the landlord... should there be any further incident or circumstances warranting termination of tenancy, we will have no alternative but to issue an eviction notice'.

The tenant denies having received the Warning. But the landlords testified that not only did they send the Warning to the tenant, they also discussed it with him after sending it. Also, after the Warning, the disturbances noticeably subsided for a few months.

Then, the disturbances began again.

As evidence of this renewal of these disturbances, the landlords offered several letters complaining about the tenant.

One occupant living next door to the tenant wrote a letter complaining about:

‘striking/slamming of doors or furniture... in the middle of the night. I have spent days and nights on more than one occasion kept awake by the yelling and screaming and constant traffic next door at all hours of the night affects my sleep... We are stressed to the max and are considering moving out of the Park due to these ongoing issues.’ This occupant wrote this letter four days before the Notice was issued.

The next day, another occupant wrote a letter about the tenant, saying that since that tenant moved in:

‘there has been constant excessive traffic at all hours of the day./ 7 days a week. From 11-3 in the morning. My bedroom is at the front of my place and the vehicle noise is a nuisance. Even last night at 2 a.m. they had vehicles coming and going. I go to bed at around 10/1030 for work and these vehicles are continuous after I go to bed. This traffic is effecting [sic] my sleep patterns and overall enjoyment of living in the park.’

Later in January this year, someone claiming to own two sites at the Park wrote a letter saying that:

‘Over the last few months, I have received several complaints from my tenants that live there. I have witnessed excessive traffic coming and going from the [tenant’s] unit and loud noise. The [tenant’s] visitors... speed through the park... This past weekend I was contacted by both of my tenants as to a noise complaint from [the tenant’s unit]. There was screaming and what sounded like a dispute. This has been a constant from the unit. My tenant’s [sic] feel unsafe... Both are expressing that they are starting to feel unsafe, and that [the landlords’ park] is no longer a place that they want to reside.’

The landlords also said that they contacted police about these disturbances.

In response to these letters, the tenant told me that there is not, in fact, much traffic coming to their site. But, said the tenant, there is a lot of traffic in the Park generally: workers coming and going. The tenant agreed that there is traffic going all night long, but denied that the traffic was to and from their site.

Having considered all of the evidence, I find that it is probable that these disturbances are from the tenant's site. Two occupants of the Park made written complaints about these disturbances and specified them as originating with the tenant's site. And a third complaint recounted similar disturbances, observed both by the letter-writer, and by that person's tenants.

The description of these disturbances is consistent with each other: excessive vehicular traffic to and from the tenant's site, and other noises, at all hours, which distresses other occupants. I do not find the tenant's explanation of this traffic ('workers coming and going') as consistent with the timing and nature of traffic recorded by other occupants.

I accept that such disturbances would interfere with the other occupants' use of the Park. And it is apparent from the complaints that the disturbances are frequent and ongoing.

Because I have decided that the landlords have succeeded in their first ground to end the tenancy, I will not consider the other grounds raised in the Notice.

### Conclusion

I grant an Order of Possession to the landlords, *per* s. 55 (3) of the *Manufactured Home Park Tenancy Act* [the 'Act']. This order is effective two days after the landlords serve it upon the tenant.

As the tenant did not succeed in their application, I will not order that the landlords reimburse the tenant for the filing fee for this application.

I make this decision on authority delegated to me by the Director of the RTB *per* section 9.1(1) of the Act.

Dated: 5 April 2023