



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNETC, FFT

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking monetary compensation for the landlord's failure to comply with the *Residential Tenancy Act* by using the rental unit for the purpose contained in a Four Months Notice to End Tenancy For Demolition, Renovation, Repair or Conversion of a rental unit; and to recover the filing fee from the landlord for the cost of the application.

The tenant and the landlord attended the hearing and each gave affirmed testimony. Another person joined the call identifying herself as a co-owner. That person is not a party to the application, and I found that person to be a witness, who was excused until time for her to testify. The witness was called upon, and gave affirmed testimony. The parties were given the opportunity to question each other and the witness and to give submissions.

The parties agree that all evidence has been exchanged, all of which has been reviewed and the evidence I find relevant to the application is considered in this Decision.

### Issue(s) to be Decided

Has the landlord established that the landlord has complied with the *Residential Tenancy Act* and acted in good faith in serving a Four Months Notice to End Tenancy For Demolition, Renovation, Repair or Conversion of a Rental Unit?

### Background and Evidence

**The landlord** testified that this month-to-month tenancy began on January 29, 2021 and ended on February 1, 2023. There is no written tenancy agreement, however rent

in the amount of \$1,000.00 was payable on the 1<sup>st</sup> day of each month. No rent was paid for the first partial month of the tenancy, and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$500.00, all of which was returned to the tenant on February 1, 2022, and no pet damage deposit had been collected.

The rental unit was a manufactured home, not in a manufactured home park but one of four manufactured homes on the landlord's property.

The landlord further testified that on November 1, 2022 the tenant was served with the 1<sup>st</sup> only of a 4-page notice to end the tenancy. A copy has been provided for this hearing and it is dated November 1, 2022 and contains an effective date of vacancy of March 1, 2023. It was accompanied by a note addressed to the tenant stating that the landlord intends to demolish the rental home and the tenant must vacate by March 1, 2023. The tenant moved out earlier, which was her own choice.

The landlord obtained permits on April 23, 2023 and a copy of a permit containing that date has been provided for this hearing, which states it is for the removal of 4 Mobile Homes from the Property. A copy of a Building Department Permit Application has also been provided for this hearing, indicating that the description of work is to remove mobile homes on the Property. Photographs of the spot the manufactured home had been situated are also in evidence. The manufactured home was moved to the landfill on June 14, 2023.

During cross examination, the landlord agreed that the move-in document shows that the tenant moved in either on June 29 or January 29, 2021 but cannot be certain which is correct. The landlord did not understand that permits had to be obtained prior to issuing the notice to end the tenancy.

**The landlord's witness** testified that the rental property is a family business, and the tenant lived in a mobile home on the property. The tenant was given the notice to end the tenancy but moved out on her own will before the effective date of the notice, but the witness does not remember what date that was. The reason for serving the notice was to demolish the rental home and a building permit was issued on April 23, 2023. The home was not demolished but was moved; the witness does not know where it was moved to. The landlord did not re-rent.

The permit is dated April 23, 2023 but the landlord gave the Notice to end the tenancy in November to give the landlord enough time to process it by getting permits, etc.

**The tenant** testified that the landlord originally gave the tenant a note on a hotel receipt to move out within 2 months. The tenant took it back to the landlord saying it was illegal and the landlord had to go through the Residential Tenancy Branch. The landlord served a friend with the Four Month Notice to End Tenancy at the tenant's residence, but only the first page.

The manufactured home remained on the property for another 4 months, leaving the tenant homeless and still 1 lady is still living in one of the manufactured homes 6 months later.

The rental home was supposed to be demolished but wasn't and was still livable. The tenant did not receive 1 month's compensation, but did receive the security deposit from the landlord.

Two weeks prior to moving out, the landlord arrived at the door of the rental unit and asked the tenant when she was leaving, so the tenant gave the landlord a letter saying she was moving out on February 28, 2023.

#### SUBMISSIONS OF THE LANDLORD:

The reason this proceeding started is because 1 tenant still lives in a manufactured home who has been promising to move out and has not paid rent. The landlord cannot force her and cannot proceed with the landlord's plan.

#### SUBMISSIONS OF THE TENANT:

The tenant has been homeless since vacating the rental unit.

#### Analysis

Firstly, I refer to Residential Tenancy Policy Guideline 2B – Ending a Tenancy to Demolish, Renovate, or Convert a Rental Unit to a Permitted Use. That Policy Guideline explains for parties that:

“Section 49(6) of the Residential Tenancy Act (RTA) allows a landlord to end a tenancy if the landlord has all the necessary permits and approvals required by law and intends in good faith to:

- a) demolish the rental unit;
- b) convert the residential property to strata lots under the Strata Property Act;
- c) convert the residential property into a not for profit housing cooperative under the Cooperative Association Act;

- d) convert the rental unit for use by a caretaker, manager or superintendent of the residential property; or
- e) convert the rental unit to a non-residential use.”

It also explains that the landlord may apply for an order to end the tenancy and an order of possession if all of the following apply:

- a) the landlord has all the necessary permits and approvals required by law and intends in good faith to renovate or repair the rental unit(s);
- b) the renovations or repairs require the unit(s) to be vacant;
- c) the renovations or repairs are necessary to prolong or sustain the use of the rental unit(s) or the building in which the rental unit(s) are located;
- d) the only reasonable way to achieve the necessary vacancy is to end the tenancy agreement.

“If an arbitrator is satisfied that all of these criteria are met, then they must grant an order ending the tenancy and issue an order of possession. Such an order must not end the tenancy earlier than 4 months after the date it was made.”

In this case, the landlord gave a notice to end the tenancy, but only served the first of 4 pages of the Notice. The other pages do not contain random words, but important information for landlords and tenants. If the landlord had read the other pages, the landlord would know that the landlord cannot simply end the tenancy with a Four Month Notice. The form also informs landlords that a landlord must have all necessary permits and approvals required by law before they give the notice to the tenant, and when applying to end the tenancy, the landlord must have in place all permits and approvals required by law before submitting an application. In this case, the landlord did not have any permits or approvals in place prior to issuing the Notice, did not have an order from the Residential Tenancy Branch, and did not remove the rental home until 4 months after the tenant vacated.

The law states that where a landlord fails to comply with the *Act* or does not establish that the renovations or repairs have been accomplished within a reasonable period after the effective date of the order, the landlord must compensate the tenant the equivalent of 12 months rent. Therefore, I am satisfied that the tenant is entitled to compensation in the sum of **\$12,000.00** (\$1,000.00 x 12).

The law also requires a landlord to compensate a tenant the equivalent of 1 month's rent payable at the end of the tenancy, which is often accomplished by not charging rent for the last month of the tenancy. In this case, the landlord did not provide any

compensation to the tenant and I find that the tenant is entitled to recover **\$1,000.00** from the landlord.

Since the tenant has been successful with the application, the tenant is also entitled to recover the **\$100.00** filing fee from the landlord.

I grant a monetary order in favour of the tenant as against the landlord in the amount of **\$13,100.00**. The landlord must be served with the order, which may be filed in the Provincial Court of British Columbia, Small Claims division and enforced as an order of that Court.

### Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of **\$13,100.00**.

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 *Residential Tenancy Act*.

Dated: November 08, 2023

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Residential Tenancy Branch