



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes CNC, FF

### Introduction

This matter dealt with an application by the tenant to cancel a Notice to End Tenancy for cause and to recover the filing fee for this application.

Service of the hearing documents was done in accordance with s. 89 of the *Act*. They were given to the landlord's agent in person on June 15, 2009.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

### Issues(s) to be Decided

- Has the tenant provided sufficient evidence that the Notice to End Tenancy can be cancelled?
- If not, is the landlord entitled to an Order of Possession?
- Is the tenant entitled to recover his filing fee?

### Background and Evidence

This is a manufactured home park tenancy which started on July 14, 2005. The tenant pays rent for the home site of \$414.40 per month. This is due on the 1<sup>st</sup> of each month. This is a month to month tenancy and the tenant has signed an agreement to abide by the Manufactured Home Park Rules.

The tenant has applied to cancel the landlords One Month Notice to End Tenancy for cause. The tenant admits to certain behaviours which caused the landlord to serve the Notice but feels these were done in protest to the landlords' actions. The tenant admits to placing five garbage bags outside the gates to the landlords gated community property but moved these as soon as he got a phone call from the landlord about them. The tenant admits that he did pay his rent in coinage and torn and crumbled bills as a protest to the landlord actions in making him unsure and licence his car

Residential Tenancy Branch  
Ministry of Housing and Social Development

when other tenants were not given Notice to do so. The tenant also admits to keeping a car on the property that was not licensed and insured until he was given Notice to remove it or make it a legal vehicle. The tenant testifies that he gave the car to a neighbour as it was due to be sold but the buyer let him down so he then licensed and insured the car himself. The car has now been sold and is no longer on the site.

The landlord and his manager testify that the tenant has continually ignored the Manufactured Home Park Rules. The tenants' car was not licensed or insured in direct contravention of these rules and the tenant did not act to rectify this until some time later. The landlord testifies to the tenants rent payments causing considerable difficulty to the manager as he had to un-crumble and match all the torn bills and count the change that the tenant used to pay his rent. The landlord testifies that they had to find a new garbage contractor and the first week they were due to remove the garbage the truck broke down and this delayed the collection of garbage from the site. The tenant took his garbage bags and dumped them in the entrance to the subdivision next door where the landlord lives. The landlord states that this was a dangerous action due to them impeding access to and from the subdivision and with the difficulty drivers would have in seeing them, they could have caused a traffic accident.

The tenant apologises for his past behaviour and testifies that his actions were a retaliatory measure in protest of the landlords' unfairness over the issues with the car and he feels that other tenants were not given Notice to insure their vehicles.

The landlord testifies that all tenants are treated fairly and are first given a verbal request to insure their cars. If this is not complied with then a written Notice is then issued. The landlord feels that the tenants' actions have significantly interfered with or unreasonable disturbed the landlord and that the tenant has engaged in an illegal activity that has or is likely to adversely affect the quiet enjoyment of the landlord. The landlord lives in the gated community next door to the manufactured home park and the tenants' actions with the garbage have adversely affected the landlords' relationship with his neighbours in this community.

## Analysis

I have carefully reviewed all of the documentation and submissions given at the hearing. I find that the tenant has acted in a manner in which, on occasion, he has ignored the park rules and acted in a petty and difficult manner in protest at the landlords' attempts to uphold the rules of the site. The tenant has freely admitted to his actions and apologised for his behaviour. He has stated that there will not be a continuation of this type of behaviour. I now have to determine if his actions are significant enough to warrant an end to the tenancy.

The tenant did take a length of time to comply with the landlords' verbal request to either insure and licence his car or remove it from the site. A written warning was given to the tenant on July 17, 2008 to either insure the car or remove it from the property. The tenant testified that he removed the car to be sold and then when this deal fell through he insured and licensed the car himself. As these actions began in 2008 and the landlord did not apply to resolve these complaints at that time I feel that they are no longer significant enough to warrant an end to the tenancy. As this car has now been sold I feel this will not be an ongoing complaint from the landlord.

The tenant admits to defacing currency and making things difficult for the manager to count and match the money the tenant paid for his rent but again this action ceased in June, 2009 and is not deemed to be a significant reason to end the tenancy.

Due to the above, I find that the tenants' actions, although wilful and petty, have not significantly interfered with or unreasonably disturbed the landlord or other occupants of the manufactured home park site in a manner which would warrant an end to the tenancy at this time.

The issue over the garbage is more difficult to determine as the tenant acted in an irresponsible manner by dumping the garbage bags outside the landlords gated community and therefore potentially created a dangerous situation which could have resulted in a car accident or at least causing garbage to be spilt from the bags. I find that there is no evidence of an illegal activity that has or is likely to adversely affect the quiet enjoyment of the landlord as alleged on the One Month Notice. However, I find that there is ample evidence that the tenant has behaved in a petty and irresponsible manner. This mischievous action has also been detrimental to the landlords' relationship with his neighbours in the gated community and shows a complete disregard for the



# Dispute Resolution Services

Page: 4

Residential Tenancy Branch  
Ministry of Housing and Social Development

landlord that has caused considerable inconvenience and created resentment for the landlord by his neighbours.

Due to the above considerations I find that there is insufficient evidence to support the grounds set out on the One Month Notice to End Tenancy for Cause dated June 12 2009; therefore, it is cancelled and the tenancy will continue.

The landlord has some concerns about the tenants' actions creating an example for the other residents on the manufactured home park site. However, it is not the tenants' obligation to set a good example to other tenants and I would strongly suggest that the landlord reinforces the park rules with the other tenants.

As the tenant has been successful in this matter, he is entitled to recover his \$50.00 filing fee pursuant to s. 72(1) of the *Act*.

## Conclusion

The tenant's application is allowed. The one Month Notice to End Tenancy for Cause dated, June 12, 2009 is cancelled and the tenancy will continue. As the tenant has been successful in setting aside the Notice, he is entitled to recover his \$50.00 filing fee for this proceeding and may deduct that amount from his next rent payment when it is due and payable to the landlord.

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: July 28, 2009.

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Dispute Resolution Officer