



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

**Dispute Codes**      OPB, OLC, FF

### **Introduction**

This hearing was convened by way of conference call to deal with the landlord's application for an Order of Possession for breach of an agreement with the landlord and to recover the filing fee from the tenants for the cost of this application.

The landlord company was represented by two agents who both gave affirmed testimony. Both tenants also attended the conference call hearing and gave affirmed testimony. The parties also provided evidence in advance of the hearing, and were given the opportunity to cross examine each other on the evidence and testimony provided. All information has been reviewed and is considered in this Decision.

At the outset of the hearing, the landlord's agents withdrew the application for an Order of Possession, stating that they misunderstood the form, and applied to amend the application to withdraw that portion and add an application that the tenants comply with the *Act*, regulation or tenancy agreement. The amendment is allowed.

### **Issue(s) to be Decided**

Is the landlord entitled to an order that the tenants comply with the *Act*, regulation or tenancy agreement?

### **Background and Evidence**

This month-to-month tenancy began on September 1, 2007 in a manufactured home park. Rent in the amount of \$809.00 per month is payable in advance on the 1<sup>st</sup> day of each month, and there are no rental arrears.

The landlord's agents testified that the tenants erected a railing on the porch of the manufactured home that was not approved by the landlord's agents prior, and does not comply with the rules and regulations of the manufactured home park. The railing was

over-sized and required aluminum rails. The tenants corrected the size, but not the railings.

The landlord's agents provided a copy of the tenancy agreement, and at paragraph 32 the tenants agreed to abide and conform with the current rules and regulations of the manufactured home community, including modifications and additions to the home. The Rules and Regulations were also provided by the landlord's agents in advance of the hearing, which state that: "All replacement handrails, deck rails and vertical support rails on stairs, attached patios or decks must be metal or aluminum or other man made synthetic materials would be considered with the approval of Management. Management will approve no new wooden handrails. Existing wooden hand rails and deck rails must be structurally sound, painted in a manner that does not detract from the aesthetic appearance of the home and community and compatible with the community standards."

The landlords agents testified that the tenants erected the porch without prior approval which was not in compliance and the tenants were advised by a memorandum that remedial work was required. The tenants corrected the size of the porch to the satisfaction of the landlord's agents, but attached wooden handrails. A number of notices were sent to the tenants to correct the handrails, and the tenants attached aluminum cladding to the rails, which was still not acceptable. The landlord's agents testified that the aluminum cap was not properly fitted, would cut the skin of hands on the railing, and detracted from the aesthetic appearance. They further testified that the tenants had told the maintenance person that they were refusing to do anymore work on the railings.

The male tenant testified that he went to the Home Depot lumber yard prior to the hearing and bought what the staff there said would solve the problem, and he bought aluminum foil tape. He stated that Home Depot staff advised that it would be ample, but not to use duct tape. He stated that the wood used on the railings were pressure-treated wood. He stated that all you can buy is 6 or 12 inch wide aluminum cladding, and that aluminum tape would cover the edges, and agreed to put double the tape on the aluminum edges.

The tenant further testified that he is insured with BCAA and the porch he had built is required under the policy. He stated it will cost another \$700.00 to do it the way the landlord's agents will be happy, but has already spent \$750.00.

**Analysis**

The tenancy agreement is clear with respect to the Rules and Regulations of the manufactured home park. The tenants did not attempt to get the approval of the park management before erecting the porch and railings, and had they done so, the size and materials used would have been pointed out which would have prevented doing the work again.

The landlord's application for an order that the tenants comply with the tenancy agreement is justified in the circumstances. The landlord is also entitled to recovery of the \$50.00 filing fee for the cost of this application.

**Conclusion**

For the reasons set out above, I hereby order that the tenants comply with the tenancy agreement and Rules and Regulations of the Manufactured Home Park by finishing the railings on the porch in such a way that it can be approved by the park management by May 15, 2011. If the tenants fail to do so, the landlord will be at liberty to apply for an Order of Possession.

I further order the tenants to pay to the landlord the sum of \$50.00 for the cost of this application, and I grant a monetary order pursuant to Section 60 of the *Manufactured Home Park Tenancy Act*. This order may be filed in the Provincial Court of British Columbia, Small Claims division and 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 *Residential Tenancy Act*.

Dated: April 26, 2011.

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Residential Tenancy Branch