# Dispute Resolution Services

## DECISION

Dispute Codes        CNR, PSF

Introduction

This hearing was convened by way of conference call in response to the tenant's application to cancel the 10 Day Notice to End Tenancy for unpaid rent and for an Order for the landlord to provide services or facilities required by law.

Service of the hearing documents, by the tenant to the landlord, was done in accordance with section 82 of the *Manufactured Home Park Tenancy Act (Act)*, sent via registered mail on November 09, 2012. Mail receipt numbers were provided by the tenant at the hearing.  The landlord was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The tenant appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Preliminary Issues

RTB Rules of Procedure 2.3 states that "if in the course of a dispute resolution proceeding, the Arbitrator determines that it is appropriate to do so, the Arbitrator may dismiss unrelated disputes contained in a single application with or without leave to reapply." In this regard I find the tenant has applied to cancel a 10 Day Notice to End Tenancy and seeks an Order for the landlord to provide services or facilities required by law. As these

sections are unrelated I dismiss the tenant's application for an Order for the landlord to provide services or facilities required by law with leave to reapply.

Issue(s) to be Decided

Is the tenant entitled to cancel the 10 Day Notice to End Tenancy?

Background and Evidence

The tenant testifies that this month to month tenancy started on January 01, 2005. A rent increase was imposed on January 01, 2012 making the rent $528.00 per month for this pad.

The tenant testifies that the rent was $506.44 per month and the landlord increased it to $528.00 per month. However the tenant states she withheld the rent increase as the landlord has erected a fence which prevented the tenant's access to her utilities and closed off a section of the tenant's site. The tenant states she had a conversation with the landlord's son and told the landlord's son she would pay the rent increase as soon as the fence was moved to restore the tenant's access. The tenant testifies the landlords son said "OK no problem" but the tenant heard nothing else from the landlord and the fence is still in place.

The tenant testifies the landlord then served the tenant with a 10 Day Notice to End Tenancy on October 20, 2012. This Notice stated the tenant owed rent of $215.60 which was due on the first of each month since January, 2012. The tenant disputed this Notice on October 25, 2012.

Analysis

Section 20 of the *Act* states:

*A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

If the tenant has a dispute about a loss of access to part of her site the tenant's recourse would be to file an application for Dispute Resolution to resolve the tenants concerns. The tenant should not withhold rent.

Consequently I am not prepared to cancel the Notice to End Tenancy for unpaid rent and the tenant's application to do so is denied.

Conclusion

The tenant's application to cancel the Notice to End Tenancy is dismissed without leave to reapply.

The tenant's application for the landlord to provide services or facilities required by law is dismissed with leave to reapply.

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: November 30, 2012.

Residential Tenancy Branch