



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Silver Campsites Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing dealt with the tenants' Application for Dispute Resolution seeking to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by both tenants; two agents for the landlord and their legal counsel.

I note that Section 48 of the *Manufactured Home Park Tenancy Act (Act)* requires that when a tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord, I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the *Act*.

### Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to Section 40 of the *Act*.

Should the tenants be unsuccessful in seeking to cancel the 1 Month Notice to End Tenancy for Cause it must also be decided if the landlord is entitled to an order of possession pursuant to Section 48(1) of the *Act*.

### Background and Evidence

The parties agree the tenancy began in November 2007 for a current monthly rent of \$370.00 due on the 1<sup>st</sup> of each month.

The tenants submitted into evidence a copy of a 1 Month Notice to End Tenancy for Cause issued by the landlord on June 3, 2016 with an effective vacancy date of July 31, 2016 citing the tenant has engaged in illegal activity that has, or is likely to damage the landlord's property; adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant and jeopardize a lawful right of another occupant or the landlord and non-compliance with an order under the legislation within 30 days after the tenant received the order or the date in the order.

The tenants noted in their Application for Dispute Resolution that they received the Notice on June 3, 2016.

The landlord submitted into evidence copies of previous decisions between these parties for hearings conducted on January 19, 2016 and March 3, 2016 with an interim decision issued on January 20, 2016 and a final decision issued on March 8, 2016.

The landlord pointed out that the Arbitrator wrote the following in decision of March 8, 2016:

“After consideration of the foregoing, I find the Tenants bear the responsibility to obtain the Municipal building permit for removal of the Addition /Illegal Construction, as previously instructed by the Municipality. In addition, I find it is the Tenants’ responsibility to fully deconstruct the Addition /Illegal Construction in accordance with Municipal bylaws and section 26(3) of the Act. Accordingly, I hereby Order the Tenants to obtain all required permits and remove the Addition/Illegal Construction no later than May 31, 2016, pursuant to section 55(3) of the Act.”

The landlord submitted that to their knowledge the tenant has taken no steps to fulfil this order and issued the above noted Notice.

The tenant submitted that it is because of the landlord that he has not been able to complete the order. The tenant submitted a copy of a letter dated March 30, 2016 from his legal counsel to the landlord’s legal counsel stating, at least in part:

“In the interim, it seems to me that the most practical and cost effective solution to this dispute would be for the required building permits to be obtained, even ex post facto, and for your client not to unreasonably withhold consent for necessary improvements.

To repeat what I said in our telephone conversation, my view is that the simplest and most pragmatic solution to this dispute would be **that the offending structures are brought into compliance, so that they need not be removed.**

It seems to me that finding a practical mechanism for accomplishing that would be a much better use of everyone’s resources than examining or pursuing the other litigation options.

Accordingly, assuming for the sake of argument that it is at least possible for my client now to obtain the **necessary building permits to preserve this structure**, kindly advise whether your clients would be amenable in principal to agreeing to any changes reasonably required to bring the structures into compliance.” [reproduced as written with my emphasis added].

The tenant also submitted a copy of the response by the landlord's legal counsel dated March 30, 2016 which read, in part:

"My client advises me that they do not consent to your clients' proposal and will pursue all available remedies should the [tenants] not remove the Addition/Illegal construction by May 31, 2016 as ordered by Arbitrator Bell."

The tenants submitted that this shows that the landlord was not willing to cooperate with them to obtain permits from the district. The tenants testified that they could not obtain permits without the approval of the landlords. The tenants provided no documentation from local authorities regarding any attempts to obtain permits.

### Analysis

Section 40 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property, has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord or if the tenant has not complied with an order of the director within 30 days of the later of the following dates the date the tenant receives the order or the date specified in the order for the tenant to comply with the order.

From the submissions of both parties, I find the tenant was issued an Order by the director on March 8, 2016 that required to obtain necessary permits and to demolish the addition to his manufactured home no later than May 31, 2016.

I find there is no evidence from either party that shows the local authorities required landlord's approval to complete the work required by the March 8, 2016 Order.

Despite the tenants' assertion that the landlord was failing to cooperate, I find the letters of March 30, 2016 confirm that the tenants' legal counsel was attempting to reach an agreement that was different than was ordered by the original Arbitrator and as such the landlord was under no obligation to agree to it.

I also acknowledge that since the landlord's position on the offer from the tenant's legal counsel was rejected on March 30, 2016 the tenant still had 2 full months to comply or at least make attempts to comply with the order. I find the tenants have taken absolutely no steps to comply with the order issued on March 8, 2016.

As a result, I find the landlord has sufficient cause to end the tenancy.

Section 45 of the *Act* requires that any notice to end tenancy issued by a landlord must be signed and dated by the landlord; give the address of the manufactured home site;

state the effective date of the notice, state the grounds for ending the tenancy; and be in the approved form.

I find the 1 Month Notice to End Tenancy for Cause issued by the landlord on June 3, 2016 complies with the requirements set out in Section 45.

Section 48(1) of the *Act* states that if a tenant applies to dispute a landlord's notice to end tenancy and their Application for Dispute Resolution is dismissed or the landlord's notice is upheld the landlord must be granted an order of possession if the notice complies with all the requirements of Section 45 of the *Act*.

### Conclusion

Based on the above, I dismiss the tenants' Application for Dispute Resolution in its entirety, without leave to reapply.

I find the landlord is entitled to an order of possession effective **July 31, 2016 after service on the tenants**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be 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 *Manufactured Home Park Tenancy Act*.

Dated: July 19, 2016

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Residential Tenancy Branch