



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MT, CNC, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) filed by the Tenant under the *Manufactured Home Park Tenancy Act* (the “Act”), seeking more time to make an Application to cancel a Notice to End Tenancy and the cancelation of a One Month Notice to End Tenancy for Cause (the “One Month Notice”), in addition to the recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by the agent for the Landlord (the “Agent”) and a witness for the Landlord (the “Witness”), both of whom attended at the scheduled time, prepared to proceed. The Tenant did not attend. The Witness was placed in a sub conference to await their opportunity to provide testimony; however, no testimony was required. The Agent was given the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer only to the relevant facts and issues in this decision.

### Issue(s) to be Decided

Is the Tenant entitled to more time to make an application to cancel a Notice to End tenancy pursuant to section 59 of the *Act*?

If so, is there a valid reason to cancel the One Month Notice under the *Act*?

If the Tenant is unsuccessful in seeking to cancel the One Month Notice, is the Landlord entitled to an Order of Possession pursuant to Section 48 of the *Act*?

Is the Tenant entitled to monetary compensation to recover the filing fee pursuant to section 60 of the *Act*?

### Background and Evidence

The One Month Notice in the documentary evidence before me, dated August 10, 2017, has an effective vacancy date of September 30, 2017, and indicates that the reason for ending the tenancy is because the Tenant or a person permitted on the property by the Tenant has engaged in illegal activity that has, or is likely to, adversely affect the quiet enjoyment, security, safety, or physical well-being of another occupant. The Agent stated that the One Month Notice was sent to the Tenant by registered mail on August 11, 2017, at the address they provided for the service of documents, which is a different address than the dispute address. The Agent confirmed that the name of the Tenant and the address to be vacated (which is the dispute address) on the One Month Notice are correct and stated that the Tenant clearly received the One Month Notice as they filed an Application with regards to it.

The Tenant applied for more time to make an application to cancel a Notice to End Tenancy and to cancel the One Month Notice, in addition to seeking recovery of the filing fee; however, they did not appear at the hearing to provide any evidence or testimony.

### Analysis

I have reviewed all relevant documentary evidence and oral testimony and in accordance with sections 81 and 83 of the *Act*, I find that the Tenant was deemed served with the One Month Notice on August 16, 2017, five days after it was sent by registered mail.

As the Tenant failed to attend the hearing to present any evidence or testimony in support of their Application, their Application is dismissed without leave to reapply. As a result, I decline to grant recovery of the filing fee. I note that Section 48 of the *Act* requires that when a Tenant submits an Application 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 Section 45 of the *Act*.

Section 48 of the *Act* states the following with regards to an Order of Possession for the Landlord:

### **Order of possession for the landlord**

- 48** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the manufactured home site if
- (a) the landlord's notice to end tenancy complies with section 45 [*form and content of notice to end tenancy*], and
  - (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

Based on the above, I must now turn my mind to whether the One Month Notice issued by the Landlord complies with section 45 of the *Act* which states:

### **Form and content of notice to end tenancy**

- 45** In order to be effective, a notice to end a tenancy must be in writing and must
- (a) be signed and dated by the landlord or tenant giving the notice,
  - (b) give the address of the manufactured home site,
  - (c) state the effective date of the notice,
  - (d) except for a notice under section 38 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
  - (e) when given by a landlord, be in the approved form.

The One Month Notice in the documentary evidence before me is signed and dated by the Landlord, gives the address of the manufactured home site, states the effective date of the notice, and is in the approved form. As a result, I find that the One Month Notice complies with section 48 of the *Act* and the Landlord is therefore entitled to an Order of Possession.

### Conclusion

The Tenant's Application is dismissed and pursuant to section 48 of the *Act*, I grant an Order of Possession to the Landlord effective **Two Days after service of this Order** on the Tenant. The Landlord is provided with this Order in the above terms and the Tenant must be served with **this Order** as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia 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 *Manufactured Home Park Tenancy Act*.

Dated: October 23, 2017

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Residential Tenancy Branch