



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenants seeking an order cancelling a notice to end the tenancy for cause.

Both tenants and the landlord attended the hearing. The tenants were also assisted by an Advocate, and the landlord was represented by his daughter as agent. The landlord's agent and both tenants gave affirmed testimony, and the parties were given the opportunity to question each other and to give submissions.

The parties agree that all evidence has been exchanged, however one of the tenants does not reside in the rental unit and did not receive the landlord's evidence. The landlord's agent advised that the landlord's evidence was served by attaching it to the door of the rental unit. I find that the evidence has been exchanged in accordance with the *Act*, all of which has been reviewed and is considered in this Decision.

### Issue(s) to be Decided

Has the landlord established that the One Month Notice to End Tenancy For Cause was issued in accordance with the *Manufactured Home Park Tenancy Act*, specifically with respect to the reasons for issuing it?

### Background and Evidence

**The landlord's agent** testified that this month-to-month tenancy began on August 1, 1995 and one of the tenants still resides in the manufactured home in the manufactured home park. Rent in the amount of \$145.00 was payable on the 1<sup>st</sup> day of each month

which has been increased over time and is now \$316.81 per month, and there are no rental arrears. A copy of the tenancy agreement has been provided for this hearing.

The landlord's agent further testified that on August 6, 2023 the brother of the landlord's agent served the tenants with a One Month Notice to End Tenancy For Cause (the Notice) by attaching it to the door of the tenants' manufactured home. A copy of the Notice has been provided for this hearing and it is dated August 6, 2023 and contains an effective date of vacancy of September 7, 2023. The reasons for issuing it state:

- Tenant or a person permitted on the property by the tenant has:
  - seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
  - put the landlord's property at significant risk;
- Tenant or a person permitted on the property 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 of the property;
- Tenant has not done required repairs of damage to the unit/site/property/park;
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The Details of Cause(s) section sets out 13 issues respecting repairs and upgrades, as well as no insurance on the manufactured home. It also states:

"All of the above is in violation of material terms of the Tenancy Agreement, park Bylaws, Village of (the City) Good Neighbour ByLaw No. 810 and is a safety threat to all other homes in the park, it being a sitting fire hazard. It is also causing bad reputation to the Mobile Home park, affecting the market value of all neighbouring properties."

The landlord's agent testified that the tenants have only done cosmetic work, and the landlord doesn't know what could be wrong; nothing has been fixed for 14 or 15 years. People believe it could be a fire hazard. The landlord's agent put out a petition to other residents, a copy of which has been provided for this hearing, and all except 3 have signed it. There are 16 homes in the park.

The landlord's agent can't remember what illegal activity is alleged, but the manufactured home was so run down.

The tenants are supposed to do anything that an insurance company requires. The insurance companies didn't want to insure a 1975 manufactured home, as per evidence of the tenants. One company said the home needed wiring and plumbing and a new roof. Another said that as well as a new hot water tank. The tenants have not done any of the

work required in order to get insurance. Another insurance company said upgrades had to be done. The landlord's agent gave the tenants a list of insurance companies, but the tenants didn't try calling them for over a year.

The landlord did not give the tenants a letter with a reasonable time to correct the breach.

**The first tenant** (JH) testified that this seems to be an appeal of a previous Decision of the Residential Tenancy Branch, as far as insurance goes. Requiring insurance was not part of the tenancy agreement in 1995 and no other tenancy agreements were signed. The issue about insurance has already been decided. A copy of a previous Decision dated August 30, 2023 has been provided for this hearing.

All repairs the landlord added to the One Month Notice to End Tenancy For Cause have been fixed, and as the landlord's agent testified, it's cosmetic.

The skirting was rotten, which the tenant repaired and added railings and stairs. Photographs have also been provided for this hearing.

With respect to the landlord's petition, it only mentions site numbers, not names. Some of the homes are as bad or worse than the tenants' home before the repairs were made. The tenant does not understand the point of the petition and does not see how people can be afraid of this particular home.

The requirements of the insurance companies include a roof, electrical and plumbing upgrades, which will cost \$25,000 to \$30,000.00 and the tenants do not have the money.

The manufactured home is owned by the other tenant named, but does not reside in it.

**The second tenant** (JR) testified that the other tenant (JH) has done all corrections, and there are other manufactured homes in that are as bad or in worse condition, and the tenants feel targeted. When the tenancy agreement was signed, never, until a year ago, has the tenant been presented with a new tenancy agreement. The landlord wants the tenants to complete other issues, but the tenant has not seen any paperwork.

#### SUBMISSIONS OF THE LANDLORD'S AGENT:

The tenant said she'd look into the repair issues, and the other tenant who actually lives in the manufactured home was ignoring the landlord. The parties could have worked it out in person. The landlord just wants the tenants to get insurance or remove the manufactured home due to its poor shape. The tenants have not done anything. Even though they say they did 90% they did less than 10%, and it looks terrible, like a homeless place. The deck is spongy, the lock is coming out of the door, it looks terrible.

#### SUBMISSIONS OF THE TENANTS' ADVOCATE:

The tenants disagree that others have difficulty selling because 1 home has a new Sold sign on it. Since receiving the notices, the tenants have made significant repairs, and the list is in evidence. With respect to the car on the property, proof of insurance has also been provided for this hearing. The tenants have always paid rent on time since August 1, 1995 without issues and no changes have been made to the tenancy agreement. The landlord has not provided evidence that the landlord's property is at significant risk. All issues set out in the Details of Cause(s) section of the One Month Notice to End Tenancy For Cause have been addressed, and the tenant continues to make repairs as he can afford.

#### Analysis

Firstly, I have reviewed the Decision of August 30, 2023 because it is important that I do not make any findings of fact or law that are contrary to what has already been adjudicated upon. I also note that the landlord served the One Month Notice to End Tenancy For Cause that is the subject of this hearing prior to receiving the Decision of August 30, 2023.

The hearing resulting in the August 30, 2023 Decision involved the tenants' application to cancel a One Month Notice to End Tenancy For Cause that was issued on April 24, 2023. The reasons for issuing it were:

- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so; and
- Tenant has assigned or sublet the rental unit/site/property/park without landlord's written consent.

The landlord's position at that time was that the tenant (JH) was not a tenant but a sublet, and the breach of the material term was for having no insurance and for subletting. The Decision states that the tenant (JH) had been living in the rental unit for 28 years, and the landlord is estopped from ending the tenancy now for subletting. The Decision also states that to end a tenancy for breach of a material term, the landlord must notify the other party in writing about the problem, that the problem is a breach of a material term of the tenancy agreement, a reasonable deadline to fix the breach, or if not fixed within that reasonable time, the landlord would end the tenancy. The Notice to end the tenancy at that time was cancelled for those reasons.

I agree with the tenant that this appears to be an appeal of the first Decision. However, it is a new One Month Notice to End Tenancy For Cause, and the onus is on the landlord to establish that it was given in accordance with the *Manufactured Home Park Tenancy Act*.

I have reviewed the Notice, and I find that it is in the approved form and contains information required by the *Act*.

The landlord has again attempted to end the tenancy for breach of a material term of the tenancy agreement without providing the tenants with a written request that sets out the breach, that the problem is a breach of a material term of the tenancy agreement, a reasonable deadline to fix the breach, or if not fixed within that reasonable time, the landlord would end the tenancy. Therefore, that is not a reason that can be upheld.

The landlord's agent could not remember what the illegal activity may have been, so that cannot be a reason to end the tenancy.

With respect to the tenants' failure to complete required repairs of damage to the unit/site/property/park, the landlord's agent testified that the tenants are supposed to do anything that an insurance company would want, such as wiring, plumbing a new hot water tank and a new roof or other upgrades. The landlord's agent testified that there could be a hazard, and a petition from other residents has been provided for this hearing. However, other residents of the park do not get to vote. The *Act* specifies what reasons a landlord must establish in order to end the tenancy. There is no evidence before me that the tenants are required to do the upgrades, except in an effort to obtain insurance, and I accept that some are completed. However, there is nothing in the tenancy agreement that requires the tenants to have insurance.

The Notice to end the tenancy also states that the tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord, and put the landlord's property at significant risk. The landlord relies on the cosmetics of the tenants' manufactured home, but there is no evidence that the cosmetic work still required has seriously jeopardized the health or safety or lawful right of anyone, or that the landlord's property is at significant risk.

I am not satisfied that the landlord has established any of the reasons for issuing the Notice, and I cancel it.

Since the tenants have been successful with the application the tenants are also entitled to recover the \$100.00 filing fee from the landlord. I grant a monetary order in favour of

the tenants in that amount, and I order that the tenants be permitted to reduce rent for a future month by that amount, or may serve the order to the landlord and file it in the Provincial Court of British Columbia, Small Claims division and enforced as an order of that Court.

Conclusion

For the reasons set out above, the One Month Notice to End Tenancy For cause dated August 6, 2023 is hereby cancelled and the tenancy continues until it has ended in accordance with the law.

I hereby grant a monetary order in favour of the tenants as against the landlord pursuant to Section 60 of the *Manufactured Home Park Tenancy Act* in the amount of \$100.00, and I order that the tenants may reduce rent for a future month by that amount, or may otherwise recover it.

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 26, 2023

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Residential Tenancy Branch