

DECISION

Dispute Codes MT, CNC

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to allow her more time to file her application to cancel the One Month Notice to End Tenancy and to cancel the One Month Notice to End Tenancy for cause.

The tenant served the landlord with a copy of the Application and Notice of Hearing. The landlord confirmed receipt of this package. I find that the landlord was properly served pursuant to s. 89 of the *Act* with notice of this hearing.

The landlord, his witness and the tenant appeared. All parties gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

Issues(s) to be Decided

- Is the tenant entitled to more time to file an application to cancel the One Month Notice to End Tenancy?
- If more time is granted, is the tenant entitled to cancel the Notice to End Tenancy?

Background and Evidence

Both Parties agree that this tenancy started on October 31, 2009. The rent for this trailer is \$375.00 per month and is due on the first of the month.

The tenant was served with a One Month Notice to End Tenancy on April 16, 2010 in her mail box. The tenant was deemed to have received this Notice three days after it was posted in her mailbox. Therefore the tenant had 10 days from April 19, 2010 to file her application to dispute the landlords One Month Notice. The tenant filed her application on May 12, 2010, 23 days after being deemed to have received the Notice. The tenant has provided a letter from her doctor dated May 14, 2010 which states "the tenant was unable to respond to a notice to end tenancy within the legislated response time due to her medical condition. She is now able to proceed". The tenant claims she was involved in a car accident in 1999 and is on morphine. She also states she suffers with head pains which affect her thought process.

The landlord seeks an Order of Possession to take affect at the end of September 2010

Analysis

I have carefully considered all the evidence before me, including the affirmed evidence of both parties. Section 59(1) of the Manufactured Home Park Tenancy Act states: the director may extend a time limit established in the Act only in exceptional circumstances (my interpretation). Therefore, it is my decision that the tenant has been unable to demonstrate any exceptional circumstances as to why her application was filed on the 23rd day after receiving the Notice to End Tenancy. The tenant has provided a doctors letter but this does not detail any exceptional reasons and the tenants' explanation does not warrant exceptional circumstances. Consequently, the tenants' application to cancel the landlords One Month Notice to End Tenancy for cause is dismissed.

As the landlord has requested an Order of Possession at this hearing I find the One Month Notice is upheld as the tenant did not cancel it within the allowable time frame and is

therefore conclusively presumed to have accepted that the tenancy will end on the effective date of the Notice and the landlord is entitled to an Order of Possession.

Conclusion

The tenant's application is dismissed without leave to reapply. The One Month Notice to End Tenancy for Cause will remain in force and effect.

I HEREBY ISSUE an Order of Possession in favour of the landlord effective on September 30, 2010. This order must be served on the tenant and may be filed in the Supreme Court 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: July 05, 2010.

Dispute Resolution Officer