



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPB, O, FF

Introduction

This matter dealt with an application by the Landlords for an Order of Possession for breach of an agreement.

Issues(s) to be Decided

1. Do the Landlords have grounds to end the tenancy?

Background and Evidence

On October 6, 2010, the Landlords served the Tenant in person with a One Month Notice to End Tenancy for Cause dated October 6, 2010. The grounds stated on the Notice were as follows:

- The Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord;
- Breach of a material term of a tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The effective date of the Notice is December 1, 2010. The Tenant did not apply for dispute resolution to cancel the One Month Notice.

Analysis

Section 40(1) of the Act says that a Landlord may end a tenancy by giving notice to end the tenancy if one or more of the listed grounds (including those set out above) apply. Section 40(4) of the Act says that a Tenant who receives a One Month Notice must apply for dispute resolution no later than 10 days after receiving the Notice if the Tenant wishes to dispute the Notice. If a Tenant does not apply to dispute the Notice within 10 days, then pursuant to s. 40(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy will end on the effective date of the Notice and must vacate the manufactured home site by that date.



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Section 59(3) of the Act says that the director may not extend the time limit (for a tenant) to make an application for dispute resolution to dispute a notice to end a tenancy beyond the effective date of the Notice.

I find that the Tenant did not apply to cancel the One Month Notice to End Tenancy for Cause dated October 6, 2010. Given that the effective date of the Notice is December 1, 2010, I also find that the time limit for the Tenant to apply for dispute resolution to cancel that Notice has now expired.

Section 48 of the Act sets out the circumstances under which a Landlord may seek an Order of Possession. In particular, a Landlord may apply for an Order of Possession where a tenant has not disputed a Notice to End Tenancy or where the Landlord and Tenant have an agreement that the tenancy will end on a certain date. In this case, the Landlords applied for an Order of Possession on the latter grounds however they admitted that it was their intention to enforce the One Month Notice to End Tenancy for Cause.

The Tenant did not consent to the Landlords amending their application at the hearing and as a result, the Landlords' application for an Order of Possession is dismissed with leave to reapply.

Conclusion

The Landlords' application 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 *Residential Tenancy Act*.

Dated: January 04, 2011.

Dispute Resolution Officer