



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

CNC, MT

Introduction

This Application for Dispute Resolution by the tenant was seeking to cancel a One-Month Notice to End Tenancy for Cause dated July 7, 2011 and requested additional time to dispute the Notice.

Despite being served with the Notice of Hearing by registered mail, the landlord did not appear.

Issue(s) to be Decided

The issues to be determined based on the testimony and the evidence is whether the the One Month Notice to End Tenancy for Cause should be cancelled on the basis that the evidence does not support the cause shown.

The burden of proof is on the landlord to establish that the notice was justified.

Background and Evidence

With respect to the tenant filing to dispute the Notice after the ten-Day deadline, the tenant's representative testified that the tenant had actually filed to dispute the Notice within a few days of receiving it, but had not been able to pick up the documents as she was located in a rural setting without transportation. The records indicated that an application was filed on July 21, 2011 but was cancelled.

The tenant's representative testified that the tenancy began approximately 10 years ago and the current rent is \$173.00. The One-Month Notice to Notice to End Tenancy for Cause, a copy of which was submitted into evidence, indicated that the tenant was repeatedly late paying rent.

The tenant's representative testified that the Manufactured Home Park, made it a practice over the years to accept rent paid after the first day of the month and imposed a late fee of \$20.00 each time this occurred. The landlord apparently did not object to these late payments provided the tenant paid prior to the 7th day of each month, which was when the deposit was made by the Park each month

The representative submitted that by engaging in this practice, the landlord had consented to receiving later payments and therefore should not be permitted to end the tenancy by suddenly imposing a more rigid standard on the tenant and issuing a One Month Notice to End Tenancy for Cause.

Analysis

Section 59 of the Manufactured Home Park Tenancy Act grants a dispute resolution officer the authority to extend deadlines for disputing an issue in exceptional circumstances. I accept that the tenant's late filing was due to extraordinary circumstances beyond her control.

The burden of proof to justify the One-Month Notice issued under section 47 was on the landlord. However, this landlord did not appear at the hearing to give testimony nor was any evidence submitted by the landlord.

In light of the fact that the landlord has failed to sufficiently prove that any of the criteria listed under section 40 has been satisfied, I find that I must order that the One-Month Notice to End Tenancy for Cause dated July 7, 2011 be cancelled.

Conclusion

Based on the above, I hereby order that the One-Month Notice to End Tenancy of July 7, 2011 is cancelled and of no force nor effect.

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: August 12, 2011.

Residential Tenancy Branch