

DECISION

Dispute Codes: CNC,

Introduction

This hearing dealt with applications by the tenant and the landlord pursuant to the *Manufactured Home Park Tenancy Act*. The landlord had served the tenant with a notice to end tenancy for cause and the tenant applied for an order to set aside this notice. Both parties attended the hearing and had opportunity to be heard.

Issue to be Decided

Does the landlord have grounds to end this tenancy? Did the tenant apply to dispute the notice in a timely manner?

Background and Evidence

The tenancy began in November 1989. After receiving several complaints from the other occupants of the park, regarding the activities of the tenant's daughter (BB) and her partner; on August 10, 2011, the landlord served the tenant with a one month notice to end tenancy for cause. Neither party filed a copy of the notice to end tenancy. The tenant confirmed that the notice consisted of a standard two page notice to end tenancy

The tenant testified that the notice to end tenancy alleges that there is an unreasonable number of occupants in the rental unit, the tenant has significantly interfered with or unreasonably disturbed another occupant and has engaged in illegal activity that has adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant jeopardized a lawful right or interest of another occupant.

Despite receiving the notice on August 10, 2011, the tenant filled out an application to dispute the notice on August 31, 2011 and filed it in the Residential Tenancy Branch Office on September 06, 2011. The tenant stated that she attempted to contact the head of the Association of Manufactured Home Parks and after a delay of approximately six days; she was advised to contact a lawyer. The tenant did not report any exceptional circumstances that prevented her from making an application to dispute the notice in a timely manner.

During the hearing, the reasons for the notice were discussed at length. An attempt to come to an agreement was considered and the terms of the agreement were discussed.

The landlord stated that he would allow the tenancy to continue on certain terms as follows:

1. The tenant's daughter caregiver – BB and her partner would move out of the rental unit and would be permitted to visit.
2. The tenant's other daughter RB would be allowed to move in and provide care for the tenant.

The tenant refused to accept these terms. Accordingly the attempt at mediation failed.

Analysis

Based on the sworn testimony of both parties, I find that the tenant received the notice to end tenancy for cause on August 10, 2011. The tenant did not apply to dispute the notice until September 06, 2011, a full 26 days after receiving the notice. The tenant did not apply for more time to make the application to dispute the notice to end tenancy.

Section 40(5) of the *Manufactured Home Park Tenancy Act* provides that tenants have 10 days in which to dispute a one month notice to end tenancy, failing which they are conclusively presumed to have accepted the end of the tenancy. The tenant has not applied for more time to apply to dispute the notice.

Under section 59(1) of the Act, an extension of time can **only** be granted where the applicant has established that there are **exceptional circumstances**. In this matter, the word *exceptional* implies that the reason(s) for failing to apply for dispute resolution in the time required are very strong and compelling. On reflection of the reasons advanced by the tenant, I find that the tenant has failed to prove that *exceptional circumstances* prevented her from filing for dispute resolution within the legislated time limit and accordingly uphold the notice to end tenancy.

Conclusion

The notice to end tenancy is upheld and the tenancy will end in accordance with the effective date of the notice.

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: October 03, 2011.

Residential Tenancy Branch