



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the landlord's application for Dispute Resolution seeking to end the tenancy with the tenant pursuant to section 49 of the *Manufactured Home Park Tenancy Act* (the "Act").

The landlord and the tenant's representative appeared, gave affirmed testimony, were given the opportunity to make oral and written submissions prior to the hearing, and to respond each to the other.

Issues(s) to be Decided

Has the tenant's breach of the tenancy agreement, *Manufactured Home Park Tenancy Act* and regulations been so significant as to entitle the landlord to end this tenancy early without waiting for a notice under section 40 of the *Act* to take effect?

Background and Evidence

The landlord testified that this tenancy began in January 2011, when the tenant began residing in the manufactured home in which the tenant's mother previously lived.

The landlord seeks an early end to the tenancy based upon a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), which was issued by the landlord on September 7, 2011, listing unpaid rent of \$1,195.00. The landlord supplied the Notice into evidence.

The landlord testified that the tenant has a history of paying late and has been issued two 10 Day Notices to End Tenancy for Unpaid Rent prior to the one dated September 7, 2011.

The landlord requested an Order of Possession.

Analysis

I deny the landlord's application as I find that the landlord has not met the test required under section 49 of the *Act* to end this tenancy early.

Section 49 of the *Act* is an extraordinary remedy which grants the Director authority to end a tenancy without a notice of end tenancy if sufficient cause is established and the landlord demonstrates that it would be both unfair and unreasonable to allow the tenancy to continue until a 1 Month Notice to End Tenancy under section 40 of the *Act* would take effect.

The landlord is seeking to end this tenancy based upon a 10 Day Notice to End Tenancy for Unpaid Rent issued under section 39 of the *Act*, not section 40.

I find that the landlord is not allowed under the *Act* to seek an early end to the tenancy based upon unpaid rent.

Conclusion

I have denied the landlord's application and I therefore **dismiss it without leave to re-apply**.

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 21, 2011.

Residential Tenancy Branch