

DECISION

Dispute Codes CNR, FF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order Cancelling a Notice to End Tenancy - Section 46; and
2. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Notice to end tenancy valid?

Is the Tenant entitled to a cancellation of the Notice to end tenancy?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

On July 2, 2012, the Landlord personally served a Notice to end tenancy for unpaid rent (the “Notice”) on the Tenant. The Tenant states that the tenancy started in 2009 and that the Tenant rents the unit from the owner of the trailer. The Tenant states that he pays the pad rent to the Landlord on behalf of the owner and that no rent monies are owing to the Landlord. The Landlord states that they have confirmed that the owner of the unit is not the Tenant. The Landlord states that they do not have a tenancy agreement with either the owner of the trailer or the Tenant. The Landlord states that they have only partial records of payment of the pad rent. The Tenant argues that the Notice is invalid as it applies to the Tenant and asks that the Notice be cancelled.

Analysis

Based on the evidence of the Landlord that no tenancy agreement is available, considering that no rent receipts were provided as evidence for the Hearing and taking into account that the Landlord is aware that the owner of the trailer is not the Tenant, I

find that the Landlord does not have a right to end the tenancy of the Tenant and that the appropriate party for the Landlord to serve the Notice would be the owner. Accordingly, I find that the Notice is invalid and that the Tenant is entitled to a cancellation of the Notice. The tenancy continues. Given that the Tenant has been successful with its application, I find that the Tenant is entitled to recovery of the \$50.00 filing fee.

Conclusion

The Notice is cancelled and of no effect. The tenancy continues.

I grant the Tenant an order under Section 67 of the Act for **\$50.00**. If necessary, this order may be filed in the Small Claims 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 *Manufactured Home Park Tenancy Act*.

Dated: July 26, 2012.

Residential Tenancy Branch