



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNR

Introduction

This matter dealt with an application by the Tenants for more time to apply to cancel a Notice to End Tenancy and to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated July 11, 2012.

Issue(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

Background and Evidence

This tenancy started on October 1, 2007. Pad rent was \$515.00 per month until April 1, 2012 when it increased to \$545.00 per month. Rent is due in advance on the 1st day of each month.

The Parties agree that on July 11, 2012, the Landlord's agent served the Tenants in person with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The Parties also agree that as of that date, the Tenants had rent arrears of \$2,225.00 (plus late fees of \$225.00). The Parties further agree that the Tenants have made any payment on the rent arrears since they were served with the 10 Day Notice and that August 2012 rent has also not been paid.

Analysis

Section 59(1) of the Act says that the director may extend a time limit under the Act but only in exceptional circumstances. However, s. 59(3) of the Act says that the director may not extend the time limit for a tenant to pay overdue rent (unless it is agreed to by the landlord).

Section 39(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must either pay the overdue rent or (if the

amount is not owed) apply for dispute resolution. If a Tenant fails to do either of these things, then under section 39(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

I find that the Tenants were served in person on July 11, 2012 with a 10 Day Notice to end Tenancy for Unpaid Rent or Utilities and therefore had to pay the arrears or apply to cancel Notice ***no later than July 16, 2012***. The Tenants filed their application to cancel the Notice on July 17, 2012, or one day late. The Tenants said they have disabilities and are currently having significant financial difficulties. However, even if I granted the Tenants' application to extend the time for them to file their application to cancel the 10 Day Notice for these reasons, I find that there are no grounds to grant their application to cancel the 10 Day Notice. The Tenants admitted that there were rent arrears when they were served by the Landlord with the 10 Day Notice and that these arrears have still not been paid. Consequently, the Tenant's application to cancel the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated July 11, 2012 is dismissed without leave to reapply.

The Landlord's agent requested and I find pursuant to s. 48(1)(a) of the Act that she is entitled to an Order of Possession to take effect 2 days after service of it on the Tenants.

Conclusion

The Tenants' application is dismissed without leave to reapply. An Order of Possession to take effect 2 days after service has been issued to the Landlord. A copy of the Order must be served on the Tenants and may be enforced in the Supreme Court of British Columbia.

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: August 15, 2012.

Residential Tenancy Branch