



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MT, CNC / OPC

Introduction

This hearing concerns the tenant's application for more time to make an application to cancel a notice to end tenancy / and cancellation of a notice to end tenancy for cause. Both parties participated in the hearing and gave affirmed testimony.

During the hearing the landlords made an oral request for an order of possession in the event that the tenant's application does not succeed.

Issue(s) to be Decided

Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background / Evidence / Analysis

Pursuant to a written tenancy agreement, the tenancy began on October 1, 2008.

The landlord issued a 1 month notice to end tenancy for caused dated August 7, 2012. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is September 30, 2012. There are several reasons shown on the notice for its issuance.

The notice was served by way of posting on the tenant's door on August 7, 2012 (deemed received 3 days later on August 10, 2012, pursuant to section 83 of the Act). The tenant claims that was she was away, it was not until August 20, 2012 when she returned home to find the notice.

Additionally, the notice was served by way of registered mail on August 7, 2012 (deemed received 5 days later on August 12, 2012 pursuant to section 83 of the Act). The landlord submitted into evidence the Canada Post tracking numbers for the registered mail, and the Canada Post website informs that the item was successfully delivered on September 3, 2012.

Pursuant to section 40 of the Act, the tenant had 10 days to dispute the notice by filing an application with the Residential Tenancy Branch. As the tenant's application was filed on August 24, 2012, her application was outside the 10 day limit in the case of both methods of service. Accordingly, the tenant applied for more time to make her application.

Section 59 of the Act speaks to **Director's orders: changing time limits**, and provides that the director may extend a time limit established by the Act only in "exceptional circumstances." In the absence of any conclusive evidence of exceptional circumstances, the tenant's application for more time to make an application to cancel a notice to end tenancy is hereby dismissed, and the landlord's notice is upheld.

Section 48 of the Act speaks to **Order of possession for the landlord**, and provides in part as follows:

48(1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the manufactured home site to the landlord if, at the time scheduled for the hearing,

- (a) the landlord makes an oral request for an order of possession, and
- (b) the director dismisses the tenant's application or upholds the landlord's notice.

Following from all of the above, I find that the landlord has established entitlement to an order of possession.

Despite the above, the tenant testified that she is currently in the process of moving out of the manufactured home. She also indicated that her preference is to sell the manufactured home as opposed to moving it off the manufactured home site and out of the manufactured home park. In this regard she testified that she has one or two prospective buyers in mind.

For their part, the landlords stated that in the event that the tenant decides to sell the manufactured home, the landlords would be required to conduct an inspection of it at a mutually agreeable time. Further, the landlords informed the tenant that a prospective buyer / resident would be required to complete an application package and be assessed as suitable by the landlords as a resident in the manufactured home park.

In the event that a successful sale of the manufactured home does not transpire, the landlords indicated their wish to obtain an order of possession effective as soon as possible. However, the tenant identified concerns and uncertainty around the costs and alternatives available to her in association with the removal.

Conclusion

The tenant's application for more time to make an application to cancel a notice to end tenancy, and the application to cancel a notice to end tenancy for cause are both hereby dismissed.

The landlord's notice to end tenancy is upheld, and I find that the landlords have established entitlement to an order of possession.

Following from all of the above, I hereby issue an order of possession in favour of the landlords effective not later than **Friday, November 30, 2012**. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia 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: September 27, 2012.

Residential Tenancy Branch