



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing was convened by way of conference call in response to an application made by the tenant for an order cancelling a notice to end tenancy for cause.

The tenant attended the conference call hearing with an advocate, however despite being personally served with the Tenant's Application for Dispute Resolution and notice of hearing documents on October 21, 2012, the landlord did not attend. The tenant provided affirmed testimony that the landlord was served in that fashion on that date at the landlord's place of business as a landlord, and I am satisfied that the landlord has been served in accordance with the *Manufactured Home Park Tenancy Act*.

The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participants who attended the conference call hearing were the tenant and the tenant's advocate.

The tenant gave affirmed testimony and provided evidentiary material prior to the commencement of the hearing, all of which has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Is the tenant entitled to an order cancelling a notice to end tenancy for cause?

Background and Evidence

The tenant's advocate made a preliminary application at the commencement of the hearing with respect to the notice to end tenancy. The tenant has provided a copy of a 1 Month Notice to End Tenancy for Cause, which has been issued under the *Residential Tenancy Act* and testified that the notice was issued by the landlord. The advocate indicated that the rental premise is a pad in a manufactured home park, and submitted that the landlord has issued a notice under an incorrect statute. The tenant's

application specifies that the application is being made under the *Manufactured Home Park Tenancy Act*.

The notice also states that it is issued on the 9th of October, 2012 and states that the tenant must move out of the rental unit or vacate the site on the same date.

Analysis

I have no evidence before me to satisfy me that the landlord has complied with the *Manufactured Home Park Tenancy Act* with respect to the issuance of the 1 Month Notice to End Tenancy for Cause. The landlord has not attended the hearing, although duly served, and the tenant has disputed the notice. The *Manufactured Home Park Tenancy Act* states that if a tenant does not dispute such a notice within 10 days of receiving it, the tenant will be conclusively presumed to have accepted that the tenancy ends on the effective date of the notice. The notice contains an obvious error with respect to the effective date, and I accept the testimony of the tenant and submissions of the tenant's advocate that the rental premise is a pad in a manufactured home park. The tenant has disputed the notice and the landlord did not attend to prove the notice, and having found that the landlord has been served in accordance with the *Act*, I also find that the notice ought to be cancelled.

Conclusion

For the reasons set out above, the notice to end tenancy dated October 9, 2012 is hereby cancelled.

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: October 30, 2012.

Residential Tenancy Branch