



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC / OPC

Introduction

This hearing was scheduled in response to an application by the tenants for cancellation of a notice to end tenancy for cause. Both parties participated and / or were represented in the hearing and gave affirmed testimony.

During the hearing the landlord confirmed the desire set out in her written submission which is to obtain an order of possession in the event the tenants' application does not succeed.

Issue(s) to be Decided

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

Background and Evidence

A previous hearing was held in a dispute between these parties on August 29, 2012 with a decision issued by date of August 30, 2012 (file # 795645). Pursuant to that decision the tenants' application for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement, and an order instructing the landlord to comply with the Act, Regulation or tenancy agreement were dismissed. However, in the decision the dispute resolution officer found that the tenants had established entitlement to recover an overpayment of rent in the amount of \$320.45.

As a Preliminary Matter in the above decision, it is noted in part as follows:

The Agent for the Landlord stated that this complex is a Recreational Vehicle Park and is not governed by the Act. She stated that the landlord has a Supreme Court ruling that established that the Park is not governed by the Act, although no evidence was submitted to corroborate this claim.

The Tenant contends that the complex is governed by the Act.

In the absence of evidence that shows this site is used for vacation or travel accommodation, I find that the parties have a tenancy agreement that is governed by the Act.

This tenancy in a manufactured home park began on May 1, 2011. Currently, the monthly rent is \$495.00. The previous decision, as above, speaks to an ongoing conflict between neighbours in the manufactured home park. Related to that conflict the landlord issued a 1 month notice to end tenancy for cause dated August 30, 2012. The date shown on the notice by when the tenants must vacate the unit is undetermined and, instead, the following manual notation was made on the notice by the landlord:

To Be Determined By RTO Hearing of August 29, 2012.

Reasons shown on the notice for its issuance are as follows:

Tenant or a person permitted on the property by the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord

Tenant has engaged in illegal activity that has, or is likely to:

- adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord
- jeopardize a lawful right or interest of another occupant or the landlord

The tenants filed an application to dispute the notice on September 6, 2012, and during the hearing the parties undertook to resolve their dispute

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Section 56 of the Act speaks to the **Opportunity to settle dispute**. Pursuant to this provision, discussion between the parties during the hearing led to a resolution. Specifically, it was agreed as follows:

RECORD OF SETTLEMENT

- that the tenants will vacate the site by not later than Wednesday, October 31, 2012, and that an order of possession will be issued in favour of the landlord to that effect;
- that the tenants will withhold \$320.45 from October's rent of \$495.00, leaving a balance of rent owed for October of \$174.55 (\$495.00 - \$320.45);
- that the calculation set out immediately above satisfies the finding in the decision dated August 30, 2012, in which the dispute resolution officer found that the tenants had established entitlement to an overpayment of rent in the amount of \$320.45.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Wednesday, October 31, 2012**. This order must be served on the tenants. Should the tenants 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: October 04, 2012.

Residential Tenancy Branch