



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NORDON APARTMENTS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, MNR, OPR, CNR, CNC, MT, FF

Introduction

The landlord applies for an order of possession, and a monetary order.

The tenants apply for an order for more time to make an application to dispute a 10 day Notice to End Tenancy, and for more time to make an application to dispute a One Month Notice to End Tenancy. If granted, the tenants request orders to cancel the subject notices.

Issue(s) to be decided

1. Should the tenants be allowed more time to make their application?
2. Is the landlord entitled to an Order of Possession?
3. Is the landlord entitled to a monetary order?

Background and Evidence

1. This tenancy of a manufactured home pad, began February 1, 2001. Current monthly rent for the pad is \$505.00. The tenants also rent storage at a cost of \$70.00 per month. No security deposit was ever paid.
2. The tenants failed to pay May's rent on time, and on May 2, 2013, the landlord posted a 10 day Notice to End Tenancy on the tenants' door. The tenants acknowledge this notice was received on May 2, or perhaps May 3.
3. As a result of health issues of both tenants, they did not dispute the notice within the required 5 day period, or pay the rental arrears.
4. On May 13, the tenants paid most of May's rent, rent in the sum of \$500.00. The landlord provided a receipt for that payment, which stated the partial rent received was accepted on a use and occupation basis only.
5. On May 15, the tenants were served a One Month Notice to End the Tenancy. This notice was not disputed by the tenants within the requisite 10 day period.
6. On June 1, 2013, the tenants paid a further \$675.00. \$575.00 of this sum represented their rent and storage payment for June. The remaining \$100.00 represented the balance of May's rent (\$5.00), May's storage charge (\$70.00), and a late fee payment for May (\$25.00).
7. On June 7, 2013, the tenants filed their application for more time to dispute both notices. The tenants point to significant health issues they are both undergoing, as the reason their application was filed late

Analysis

Section 59 of the *Manufactured Home Park Tenancy Act* provides for limited circumstances in which I have the authority to extend or modify a time limit. However, section 59(3) prohibits an extension of the time limit beyond the effective date of the notice. In this case, as the tenants received the 10 day Note to End Tenancy by May 3, 2013, the effective end of tenancy is May 13, 2013. The application for more time is made well after that date, and must therefore be dismissed, as to the 10 day notice.

Section 39(5) of the *Manufactured Home Park Tenancy Act* provides that when tenants do not pay arrears within 5 days of receipt of a 10 day Notice to End Tenancy, (given for non-payment of rent), or do not apply to dispute that notice within 5 days of receipt, the tenants are conclusively presumed to have accepted that the tenancy ends on the effective day of the notice, and must vacate the rental unit by that date. While the rent was eventually paid, it was paid outside of the allowable time frame. Section 39(5) therefore applies, and the tenants are conclusively presumed to have accepted that the ending of the tenancy.

As the landlord has accepted June's rent on a use and occupation basis, the tenancy is extended to, and shall end, June 30, 2013. An Order of Possession is granted effective July 1, 2013.

All rent and storage charges have been paid, along with the late fee for May. However, as the landlord is successful, I order that the tenants pay to the landlord the landlord's \$50.00 filing fee.

As the tenancy has ended, I need not deal with the issue of the One Month Notice. The tenants claim disputing that notice has become moot, and is dismissed in full.

Conclusion

The tenants' application is dismissed. The tenancy ends June 30, 2013.

Pursuant to Section 48(2)(b) of the *Manufactured Home Park Tenancy Act*, I issue an Order of Possession effective July 1, 2013. Should the tenants fail to comply with this Order, the landlord may register the Order with the Supreme Court for enforcement.

The landlord is issued a monetary order in the amount of \$50.00, representing recovery of the landlord's filing fee.

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: June 17, 2013

Residential Tenancy Branch