



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BFC MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL, FF, O

Introduction

This matter dealt with an application by the Tenant for a Notice to End Tenancy to be cancelled, to recover the filing fee for this proceeding and for other considerations.

The Tenant's agent said he served the Landlord with the Application and Notice of Hearing (the "hearing package") by registered mail on June 14, 2013. Based on the evidence of the Tenant's agent, I find that the Landlord was served with the Tenant's hearing package as required by s. 82 of the Act and the hearing proceeded in the absences of the Landlord.

Issues(s) to be Decided

1. Is the Tenant entitled to an order to cancel the Notice to End Tenancy issued by the Landlord?
2. What other considerations are there?

Background and Evidence

This tenancy started in the summer of 1979 as a month to month tenancy. Rent is \$150.00 per month payable in advance of the 1st day of each month.

The Tenant's agent said the Landlord issued a 12 month Notice to End Tenancy for Conversion of the Manufactured Home Park dated May 31, 2013 to him for his mother on May 31, 2013. The effective vacancy date on the Notice is May, 2014. As well the Tenant's agent said the address on the Notice for the property to be vacated is not his mothers address. The Tenant said the address is incorrect.

The Tenant's agent said they are requesting the Notice to End Tenancy be cancelled because the address and effective vacancy date are incorrect on the Notice to End Tenancy. As well the Tenant's agent said the Landlord said he is using the site for a manufacture home that he owns; therefore the Tenant's agent said he does not believe the Landlord is converting the manufactured home park site to a non residential use or residential use other than a manufactured home. The Tenant said the reason on the

Notice to End Tenancy is to convert the site to a non residential or residential use other than a manufactured home park. The Tenant's agent said the Landlord's reason to end the tenancy does not comply with the Notice to End the Tenancy or section 42 of the Act.

Analysis

Section 42 of the Act says: Landlord's notice: landlord's use of property

42 (1) Subject to section 44 [*tenant's compensation: section 42 notice*], a landlord may end a tenancy agreement by giving notice to end the tenancy agreement if the landlord has all the necessary permits and approvals required by law, and intends in good faith, to convert all or a significant part of the manufactured home park to a non-residential use or a residential use other than a manufactured home park.

(2) A notice to end a tenancy under this section must end the tenancy effective on a date that

(a) is not earlier than 12 months after the date the notice is received and is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement, and

(b) if the tenancy agreement is a fixed term tenancy agreement, is not earlier than the date specified as the end of the tenancy.

(3) A notice under this section must comply with section 45 [*form and content of notice to end tenancy*].

(4) A tenant may dispute a notice under this section by making an application for dispute resolution within 15 days after the date the tenant receives the notice.

(5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

- (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and
- (b) must vacate the manufactured home site by that date.

Section 44 of the Act says: Tenant's compensation: section 42 notice

44 (1) A landlord who gives a tenant notice to end a tenancy under section 42 [*landlord's use of property*] must pay the tenant, on or before the effective date of the notice, an amount that is equivalent to 12 months' rent payable under the tenancy agreement.

(2) In addition to the amount payable under subsection (1), if steps have not been taken to accomplish the stated purpose for ending the tenancy under section 42 within a reasonable period after the effective date of the notice, the landlord must pay the tenant an amount that is the equivalent of 6 times the monthly rent payable under the tenancy agreement.

Section 45 of the Act says: Form and content of notice to end tenancy

45 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) **give the address of the manufactured home site,**
- (c) state the effective date of the notice,
- (d) except for a notice under section 38 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

The Tenant's agent has provided the Notice to End the Tenancy that the Landlord gave them on May 31, 2013 and I have reviewed it. The Landlord's Notice to End Tenancy for Conversion of Manufactured Home Park dated May 31, 2013 has two

addresses on it for the Tenant and the address for the site to be vacated is incorrect; therefore the Notice to End Tenancy for Conversion of Manufactured Home Park dated May 31, 2013 is not valid. A valid Notice to End Tenancy must have the correct address on the site to be vacated. Consequently the Landlord's Notice to End Tenancy for Conversion of Manufactured Home Park dated May 31, 2013 is cancelled as the Notice is not valid and I order the tenancy to continue as verbally agreed to in the tenancy agreement.

As the Tenant have been successful in this matter I order the Tenants to recover the filing fee for this proceeding of \$50.00 by reducing the August, 2013 rent from \$150.00 to \$100.00.

Conclusion

The Landlord's Notice to End Tenancy dated May 31, 2013 is cancelled as the Notice is not valid.

I order the Tenant to reduce the August, 2013 rent from \$150.00 to \$100.00 to recover the filing fee for this application.

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: July 15, 2013

Residential Tenancy Branch