



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CEDAR ACRES TRAILER PARK
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes O, FF

Introduction

This hearing was convened by way of conference call in response to an application made by the landlord for an Order of Possession and to recover the cost of the application from the tenant.

Both parties attended the hearing and no issues of service were raised by either party. Both parties provided affirmed testimony and documentary evidence prior to the hearing, all of which has been carefully considered in this Decision.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession based on a tenant's notice to end tenancy?

Background and Evidence

Both parties agreed that the tenancy started on September 9, 2006 on a month-to-month basis and rent for the manufactured home park site of \$393.80 is currently payable by the tenant on the 1st day of each month.

The landlord testified that on March 28, 2013 the tenant wanted to get the landlord's permission to sell their manufactured home and requested from the landlord an internal application form for a prospective purchaser. On March 29, 2013 the landlord responded with a written letter, submitted as evidence, asking the tenant to remove the property after sale or if the prospective tenant wants to remain for them to make application to the park to do so.

The next day the landlord called the tenant asking for the forms to be picked up. However, they were not picked up by the tenant until April 3, 2013.

The landlord testified that on April 9, 2013 the tenant brought the completed forms back to the landlord stating that someone wanted to purchase the home. As a result, the landlord stated that he received from the tenant a notice to end the tenancy on April 22, 2013. The notice, which was supplied as evidence, detailed the address of the rental unit and was signed and dated stating that "Occupants of Unit 15 will vacate on or before June 01/2013".

The landlord acknowledged this notice as an official written notice which ended the tenancy. However, on May 27, 2013 the landlord received another letter from the tenant stating that they would no longer be leaving and will remain owners of the home and site. The landlord responded, in writing, explaining that the site had already been committed to another tenant. As a result, the landlord is now seeking an Order of Possession for the unit.

The tenant testified that they had a handshake agreement with a new purchaser and as a result sent the landlord an end of tenancy notice on May 22, 2013. However, the tenant testified that this had been forced on them because the landlord refused to give them the application forms for the prospective new owner of the manufactured home until an end of tenancy date had been provided. The tenant testified that she had not addressed this issue with the landlord in writing but expressed frustration because the home had not sold and their circumstances had now changed. The tenant testified that they tried to pay rent to the landlord for June but he would not accept it.

In response, the landlord testified that the application forms had been provided to the tenant before the tenant's notice was provided and that he was not willing to accept rent from the tenants as the tenancy had ended and he did not want to re-instate the tenancy or give consent for the notice to end tenancy to be recanted.

Analysis

Section 38 of the *Manufactured Home Park Tenancy Act* states that a tenant may end a periodic tenancy by giving the landlord a written notice that is effective one full rental month after the notice is served onto the landlord.

In this case, the tenancy was a month-to-month tenancy and the tenant had served the landlord with a notice on May 22, 2013, which I find had the correct details as required by the *Act*, which ended the tenancy after one full rental months of notice. This was confirmed by the tenant.

Policy Guideline 11 talks about amending and withdrawing notices and states that a tenant cannot unilaterally withdraw a notice to end tenancy unless this has the consent of the landlord. As a result, I find that it is not sufficient for a tenant to recant a notice to end tenancy because their circumstances changed. In addition, the landlord is not willing to give consent for this notice to end tenancy to be recanted either. Therefore, I have no other choice but to issue the landlord with an Order of Possession.

As the effective date of the tenant's notice has passed, the Order of Possession will be effective two days after service upon the tenant. As the landlord has been successful in this matter, I also find that the landlord is entitled to recover the \$50.00 filing fee for the cost of the application.

Conclusion

For the reasons set out above, I find the landlord is entitled to an Order of Possession effective **2 days after service on the tenant**.

I also grant the landlord a monetary order in the amount of \$50.00 for the cost of 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 02, 2013

Residential Tenancy Branch