



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Lombardy Management Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MT, CNR, FF, O

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking more time to cancel a notice to end tenancy; to cancel a notice to end tenancy; to recover the filing fee and other.

The hearing was conducted via teleconference and was attended by the tenant and two agents for the landlord.

The landlord attempted to have another agent call in to the hearing but he was unable to do so. I attempted to call the agent in but was not able to reach him. The third agent did not attend the call.

At the outset of the hearing the tenant clarified that he was not seeking to recover the filing fee because he did not pay one and that he was not sure what "other" was. I amended the tenant's Application to exclude both of these items. The tenant also testified that he did not need more time to apply to cancel his notice and as such, I amended his Application to reflect this change as well.

I note that on October 7, 2013 the landlord submitted an Application for Dispute Resolution seeking an order of possession for unpaid rent; a monetary order for unpaid rent; to end the tenancy early and to recover the filing fee. I also note that on this Application the landlord had written the tenant's file number.

As a result the landlords' Application was not processed as a separate Application but rather as if it were evidence being submitted for today's hearing that was convened based on the tenant's Application.

During the hearing, the landlords did not verbally request an order of possession should the tenant be unsuccessful in his Application.

Throughout the hearing the tenant identified that even though he had not submitted them as evidence he had copies of receipts for the relevant periods showing that he had paid all rent in full, with the exception of September and October. The tenant offered to submit these receipts as evidence. I advised the tenant of the requirements under

Residential Tenancy Branch Rule of Procedure 3.4 or 3.5 to either submit his evidence with his Application or no later than 5 days prior to the hearing. I also advised both parties I would not be accepting any further evidence.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a 10 Day Notice to End Tenancy for Unpaid Rent, pursuant to Sections 39, of the *Manufactured Home Park Tenancy Act (Act)*.

Background and Evidence

The parties agree the tenancy began in November 2009 as a month to month tenancy for a current pad rental of \$275.00 due on the 1st of each month.

The tenant submitted a copy of a 10 Day Notice to End Tenancy for Unpaid Rent issued by the landlord on August 21, 2013 with an effective vacancy date of August 31, 2013 for unpaid rent in the amount of \$1,650.00.

The landlord submits that the tenant has failed to pay rent for the months of December 2012, January, March, April, May, August, September, and October 2013. The landlord had originally included November 2012 in her submission but reviewing the evidence the landlord confirmed that November 2012 had been paid (see below).

The tenant testified that he had receipts for all of these payments in his possession but that he had never provided copies of all his receipts to the landlords or as evidence in this proceeding. The tenant did provide the following copies:

- A receipt dated June 3, 2013 for past rent in the amount of \$275.00 paid by cheque. The landlord accepts this is a valid receipt for the payment of rent;
- A handwritten receipt dated November 26, 2012 for rent for November and December 2012. The landlord accepts this as a valid receipt except that as the tenant had not paid rent at that time for October the rent received for this receipt was attributed to October and November, not December 2012;
- An undated receipt #002 for the tenant's pad in the amount of \$275.00. The landlord accepts, based on their review of their receipt books that this payment was for rent for the month of February 2013; and
- A money order dated July 4, 2013 made payable to the landlord in the amount of \$275.00.

The tenant testified that he had not paid any rent for the months of September or October 2013, but that he had paid all rents up to that point. The tenant submits that he has receipts for the payment of rent for January 2013; March, April and May 2013; and August 2013. The tenant submits that he paid March, April and May rent all at one time to the landlord's former agent, who has recently passed away.

The landlord submits that they have no records of receiving any of the payments the tenant submits he has made and that the tenant has refused to provide copies of receipts for these periods so they can work through the issues. The tenant submits that he has attempted to provide them but the landlord has refused them.

Analysis

Section 46 of the *Act* allows a landlord to end a tenancy if any amount of rent is unpaid on any day after the day it is due by giving the tenant notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

As such, I must only find that an amount of rent was owed to the landlord on the date that the 10 Day Notice to End Tenancy for Unpaid Rent was issued, I need not determine the exact amount owed.

As the landlord disputes that the tenant has made the payments of rent that he testified he made it is incumbent on the tenant to provide some evidence to confirm his position that rent has been paid in full. As the tenant has provided no evidence to support his claims that he made payments of rent for December, 2012; January, March, April, May, and August 2013 I find the tenant has failed to establish that on the date that the landlord issued the 10 Day Notice he did not owe the landlord at least some rent.

Therefore, I find the tenant has failed to establish that the 10 Day Notice to End Tenancy for Unpaid Rent issued by the landlord on August 21, 2013 should be cancelled. I further find the notice is valid and enforceable and that the tenant must vacate the manufactured home park.

Conclusion

Based on the above, I dismiss the tenant's Application in its entirety.

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 08, 2013

Residential Tenancy Branch

