



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNLC, CNL

Introduction

This is an application to cancel a Notice to End Tenancy.

Some documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally, and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

The issue is whether or not to cancel a Notice to End Tenancy that was served on the tenant on October 4, 2013.

Background and Evidence

This tenancy began approximately 20 years ago and at the present time the tenant pays \$120.00 per month to rent a manufactured home site.

On October 4, 2013 the landlord served the tenant with a two month Notice to End Tenancy under the Residential Tenancy Act stating that the landlord has all necessary permits and approvals required by law to convert the rental unit to a non-residential use.

The applicant is asking that this Notice to End Tenancy be canceled as it has not been given in the required form.

Analysis

Section 42 of the Manufactured Home Park Tenancy Act states:

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*].

Section 44 of the Manufactured Home Park Tenancy Act states:

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(e) of the Manufactured Home Park Tenancy Act states:

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

(e) when given by a landlord, **be in the approved form.**

In this case the landlords Notice to End Tenancy is not in the approved form, and is in the form that's approved for residential tenancies only and not for manufactured home park tenancy's.

The approved form for manufactured home Park tenancies is far different from the form for residential tenancy's and has completely different information on the form, and therefore it's my finding that the form that's been served is not a valid Notice to End Tenancy.

Conclusion

The two month Notice to End Tenancy dated October 4, 2013 is hereby canceled and this tenancy continues.

I further order that the applicant may make a one-time \$50.00 deduction from future rent payable to cover the cost of the filing fee paid for today's hearing.

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: November 20, 2013

Residential Tenancy Branch

