



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes MT CNC MNR MNSD ERP RP PSF OPT

### Preliminary Issues

The Landlord affirmed that he is the owner of the manufactured home and he pays pad rental to the manufactured home park. He stated that he has rented the manufactured home to the applicant of this dispute under the *Residential Tenancy Act*. Accordingly, I amended the Tenant's application to be filed under the *Residential Tenancy Act*, in accordance with section 64(3)(c) of the Act.

Residential Tenancy Rules of Procedure, Rule 2.3 states that, in the course of the dispute resolution proceeding, if the arbitrator determines that it is appropriate to do so, he or she may dismiss the unrelated disputes contained in a single application with or without leave to reapply.

At the outset of the proceeding the Tenant began speaking about some inspections she had had conducted at the rental unit and that she did not have time to submit that information in time for this hearing. With that in mind and after reviewing the Tenant's Application for Dispute Resolution, I have determined that I will not deal with all the dispute issues the Tenant has placed on her application.

As per the Residential Tenancy Rules of Procedure Rule 2.3 listed above, in order for disputes to be combined on an application they must be related. Not all the claims on this application are sufficiently related to the main issue relating to the Notice to end tenancy. Therefore, I will deal with the Tenant's request for more time to make her application and to set aside, or cancel the Landlord's Notice to End Tenancy issued for cause; and I dismiss the balance of the Tenant's claim with leave to re-apply.

### Introduction

This hearing dealt with an Application for Dispute Resolution filed on February 3, 2014, and amended on February 13, 2014, by the Tenant, to request for more time to make her application and to set aside, or cancel the Landlord's Notice to End Tenancy issued for cause

The parties appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the Tenant and gave affirmed testimony. At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the

hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however, each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally, respond to each other's testimony, and to provide closing remarks. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

#### Issue(s) to be Decided

1. Does the Tenant require more time to file her application to dispute the Notice?
2. Should the 1 Month Notice to end Tenancy issued January 23, 2014, be upheld or cancelled?
3. If upheld, did the Landlord appear and request for an Order of Possession?

#### Background and Evidence

It was undisputed that the parties executed a written tenancy agreement for a fixed term tenancy that commenced on December 1, 2012 and switched to a month to month tenancy after June 1, 2013. The Tenant is required to pay rent of \$550.00 on the first of each month and sometime after December 2012 the Tenant paid \$250.00 as the security deposit.

The Landlord testified that he issued the 1 Month Notice of Cause on January 23, 2014, but he did not post it to the Tenant's door until February 1, 2014. He stated that the Notice was issued for repeated late payment of rent because the Tenant has always paid her rent late.

The Landlord argued that he has continuously requested the Tenant pay her rent on the first of each month but she always had a reason why she could not get him the payment. He said he even requested that she have her pension paid directly to him but she never followed through with that so he issued her the eviction Notice.

The Tenant confirmed that she received the 1 Month Notice on February 2, 2014. She stated that she has paid her rent late and argued that she stopped paying rent completely because there were too many problems with the rental unit. She argued that she had an electrical inspection and a fire inspection done recently, because the furnace does not work. She stated that she is in the process of moving so she is temporarily residing in her sister's basement; however, some of her possessions are still in the rental unit.

The Landlord confirmed that the last rent payment he received was December 3, 2013 and before that was October 25, 2013. He argued that the problems with the rental unit have been caused by the Tenant's failure to pay the natural gas bill. He stated that as per the tenancy agreement she was required to pay utilities for electricity and heat but

she refused to pay the natural gas bill and the natural gas was turned off. The furnace does not work without natural gas so the Tenant began to plug in electrical heaters and even used the oven to try and heat the rental unit, both of which caused problems in the rental unit. The Landlord requested that I give him the decision to allow the eviction because the Tenant has always paid her rent late and now has stopped paying rent completely.

### Analysis

I have carefully considered the aforementioned and the Tenant's documentary evidence. On a balance of probabilities I find as follows:

Section 47 of the Act provides that a tenant has 10 days to dispute a 1 Month Notice to end tenancy, from the date the Notice is received. The Tenant confirmed receipt of the Notice on February 2, 2014 and she filed her initial application on February 3, 2014, which was amended on February 13, 2014.

Based on the foregoing, I find the Tenant filed her application to dispute the Notice within the required period. Accordingly, the Tenant does not require more time to make her application, and the request is dismissed.

Upon review of the 1 Month Notice to End Tenancy issued January 23, 2014, I find that it was served upon the Tenant in a manner that complies with the Act. The Notice was not posted to the Tenant's door until November 1, 2014 and was received by the Tenant on November 2, 2014. Accordingly, I find the effective date of the Notice to be **March 31, 2014**, in accordance with section 53 of the Act.

Section 26 of the Act stipulates that rent must be paid in accordance with the tenancy agreement, despite any disputes the Tenant may have with the Landlord.

The undisputed evidence confirms the Tenant has repeatedly paid her rent late and now has stopped paying rent all together. Although she has removed some of her possessions, she still remains in possession of the rental unit. Upon consideration of all the evidence presented to me, I find the Landlord had valid reasons for issuing the Notice; therefore the Notice is upheld and the Tenant's application to set aside the Notice is dismissed.

Section 55 of the Act provides that an Order of Possession must be provided to a Landlord if a Tenant's request to dispute a Notice to End Tenancy is dismissed and the Landlord makes an oral request for an Order of Possession during the scheduled hearing.

Upon consideration of each party's understanding of the *Residential Tenancy Act*, as displayed in this hearing, that when the Landlord requested I "give him the decision to allow the eviction" he understood that he was requesting that I grant him an Order of

Possession. Accordingly I award the Landlord an Order of Possession effective **March 31, 2014**, the corrected effective date of the 1 Month Notice.

Conclusion

I HEREBY DISMISS the Tenant's application, without leave to reapply.

I HEREBY ISSUE the Landlord an Order of Possession. This Order is legally binding and must be served upon the Tenant.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: March 21, 2014

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Residential Tenancy Branch

