



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, MNDC, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant for an order cancelling a notice to end tenancy for landlord's use of property; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the landlord for the cost of the application.

The tenant attended the hearing, gave affirmed testimony and provided evidentiary material prior to the commencement of the hearing. However, despite being served with the Tenant's Application for Dispute Resolution, evidence and notice of hearing documents, no one for the landlord attended. The tenant testified that the landlord was served by registered mail on March 6, 2014 and has provided a receipt issued by Canada Post bearing that date, and I find that the landlord has been served in accordance with the *Manufactured Home Park Tenancy Act*. The line remained open while the phone system was monitored for 10 minutes prior to hearing testimony, and the only participant who joined the conference call was the tenant.

All evidence and testimony provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

- Should the notice to end tenancy for landlord's use of property be cancelled?
- Has the tenant established a monetary claim as against the landlord for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more particularly for compensation required by the *Act*?

Background and Evidence

The tenant testified that he has resided in the manufactured home park since 1974 and purchased a different manufactured home within the same park in 2002. The tenant still

resides in that manufactured home and pays pad rental to the landlord. Rent is collected on the 1st day of each month and the tenant testified that the amounts have varied; the rent is \$375.00 per month, plus HST or GST. The receipts say HST-GST, and the total amount the tenant has paid recently is \$403.56.

The landlord served the tenant with a 2 Month Notice to End Tenancy for Landlord's Use of Property on March 1, 2014 in person. A copy of the notice has been provided, and it appears to have been issued under the *Residential Tenancy Act*. The notice is dated March 1, 2014 and contains an effective date of vacancy of April 30, 2014. The reason for issuing the notice states: "The landlord has all necessary permits and approvals required by law to convert the rental unit to a non-residential use." The tenant testified that he has no idea what the landlord has in mind for the use of the rented pad.

The tenant also testified that the landlord has not offered any compensation as required under the *Manufactured Home Park Tenancy Act*. A copy of some legislation has been provided, which appears to have gone through the First Reading. It states, in short, that a landlord who gives a notice to end a tenancy under Section 42 must pay the tenant compensation equivalent to 12 months' rent or \$10,000.00 whichever is greater, and if the tenant is unable to move the manufactured home because of building restrictions in that jurisdiction, the landlord must also pay the tenant an amount that is equivalent to the manufactured home's fair market value, as determined by an independent adjudicator. The tenant has not had an independent appraisal completed on the manufactured home, but the tenant claims \$10,000.00 compensation as well as \$14,000 as the market value of it.

Analysis

I have reviewed the material provided by the tenant, and I find that the Act that applies is the *Manufactured Home Park Tenancy Act* because the tenant owns the manufactured home and pays pad rent to the landlord. I further find that the landlord has not complied with Section 45 which states that in order to be effective, a notice to end tenancy must be in the approved form. I find that the form used is not approved under this *Act*, but is an approved form under the *Residential Tenancy Act*.

The *Manufactured Home Park Tenancy Act* also requires a landlord to give a tenant 12 months notice to end a tenancy if the landlord 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, and the notice must be given the day before the day rent is payable under the tenancy agreement. In this case, the landlord has

issued the notice on the 1st day of the month, and the tenant testified that rent is payable on the 1st day of each month. Therefore, the notice could not be effective until April 30, 2015. I also find that the landlord has not provided any evidence that permits and approvals required by law have been obtained.

For those reasons, I hereby cancel the notice to end tenancy, and the tenancy continues.

With respect to the tenant's application for a monetary order, having found that the notice to end tenancy should be cancelled, I further find that the tenant is not entitled to any compensation from the landlord.

However, since the tenant has been partially successful with the application, the tenant is also entitled to recovery of the \$100.00 filing fee for the cost of the application, and I order the tenant to deduct that amount from a future month's rent.

Conclusion

For the reasons set out above, the notice to end tenancy issued by the landlord dated March 1, 2014 is hereby cancelled and the tenancy continues.

I hereby order the tenant to deduct the sum of \$100.00 from a future month's rent payable as recovery of the filing fee. The balance of the tenant's application for a monetary order is hereby dismissed.

This order is final and binding on the parties and may be enforced.

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: March 21, 2014

Residential Tenancy Branch

