



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF, ET

Introduction

This hearing was convened by way of conference call in response to a Landlord's Application for Dispute Resolution (the "Application") for an Order of Possession based on a notice to end tenancy for cause and to recover the filing fee for the cost of making the Application. The Landlord also applied for an Order of Possession for an early end of the tenancy which was selected by the Landlord in error on the Application.

The Landlord appeared for the hearing and provided affirmed testimony during the hearing and documentary evidence in advance of the hearing.

The Landlord testified that he personally served the Tenant with a copy of the Application, the Notice of Hearing documents and the evidence on March 18, 2014. The Landlord provided a signed document as proof of service with the Tenant's signature acknowledging receipt of these documents. Based on this evidence and in the absence of the Tenant to dispute the service of the hearing documents, I find that the Landlord served the documents to the Tenant in accordance with the Manufactured Home Park Tenancy Act (the "Act").

I amended the Landlord's Application to remove his request for an early end to the tenancy based on the authority afforded to me by Section 57(3) (c) of the Act.

The Tenant did not appear for the hearing and did not provide any evidence in advance of the hearing, despite being served with the hearing documents in accordance with the Act. As a result, I considered the undisputed evidence of the Landlord in this decision as follows.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession for cause?

Background and Evidence

The Landlord testified that this tenancy started on November 25, 2010 on a month to month basis. Currently, the Tenant pays rent in the amount of \$521.87 via a third party government organization, and this is payable on the first day of each month.

The Landlord testified that the Tenant was given a number of written breach letters concerning the removal of various garbage and junk which had accumulated outside the Tenant's manufactured home which was contrary to the park rules which the Tenant had been issued and had signed for. In these breach letters, the Landlord had also requested the Tenant to complete some yard maintenance such as grass cutting as required by a term in the tenancy agreement as well as refraining from have an unreasonable amount of occupants and littering other renters' sites with garbage and have authorized pets on the site. However, the Tenant failed to comply with the written breach letters and took no action to rectify the issues contained within the letters.

As a result, the Landlord issued the Tenant with a 1 Month Notice to End Tenancy for Cause (the "Notice"), on February 3, 2014 by registered mail. The Canada Post tracking number was provided as evidence for this method of service. The Notice was also provided as evidence and shows an expected date of vacancy of March 8, 2014 and the reasons for ending the tenancy are: the Tenant has breached a material term of the tenancy agreement that was not corrected after written notice to do so was given, and the Tenant has allowed an unreasonable number of occupants on the site.

The Landlord testified that since the issuing of the Notice to the Tenant, still no attempt has been made to rectify any of the issues; the Landlord provided photographs showing the junk and debris that has accumulated on the rental site. The Landlord also provided several breach letters that had been issued to the Tenant as well as witness statements supporting the reasons for ending the tenancy on the Notice.

Analysis

Having examined the Notice, I find that the contents on the approved form complied with Section 45 of the Act.

Section 40(4) and (5) of the Act provides that a Tenant may dispute the Notice by making an Application within ten days after the date the Tenant receives the Notice; if the Tenant does not make an Application, then they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the manufactured home site by that date.

I accept the Landlord's evidence that the Tenant was served the Notice by registered mail on February 3, 2014. Section 83(a) of the Act provides that a document served by mail is deemed to have been received five days after it is mailed. Therefore, I find that the Tenant was deemed to have received the Notice on February 8, 2014 pursuant to the Act. Section 46(3) of the Act requires that a Notice for cause must end the tenancy effective on a day that gives the Tenant a period of one full rental month for the notice to be effective. Therefore, the effective date of the Notice is automatically changed to March 31, 2014 pursuant to Section 46(3) of the Act.

Therefore, the Tenant had until February 18, 2014 to dispute the Notice by making an Application, which the Tenant did not do. As a result, I find that the Tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice, being March 31, 2014 and therefore, the Landlord is entitled to an Order of Possession.

As the Landlord has been successful in this matter, the Landlord is also entitled to recover from the Tenant the \$50.00 filing fee for the cost of this Application pursuant to Section 65(1) of the Act.

Conclusion

For the reasons set out above, I grant the Landlord an Order of Possession for the Tenant's manufactured home park site, effective **2 days after service on the Tenant**. This order may then be filed and enforced in the Supreme Court as an order of that court if the Tenant fails to remove his manufactured home.

I also grant the Landlord a Monetary Order pursuant to Section 60 of the Act in the amount of **\$50.00**. This order must be served on the Tenant and may then be filed in the Provincial Court (Small Claims) and enforced as an order of that court if the Tenant fails to make payment.

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: April 24, 2014

Residential Tenancy Branch

