



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNL, OLC, MNDC

Introduction

This hearing dealt with an application by the tenant seeking to have a notice to end tenancy set aside, a monetary order and an order to have the landlord comply with the Act. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Are the tenants entitled to any of the above under the Act, regulation or tenancy agreement?

Background and Evidence

The tenancy began on or about in 2012. Rent in the amount of \$300.00 is payable in advance on the first day of each month. There is no written tenancy agreement.

The landlord gave the following testimony:

The landlord stated that the tenancy was a renewable six month lease that is set to expire on June 30, 2014. The landlord stated that he renewed the lease several times before but is no longer interested in doing that. The landlord stated the tenancy has always been based on verbal agreements. The landlord stated that he wants the tenancy to end and that he requests an order of possession. The landlord stated that the hydro issue is not an issue at all. The landlord stated that he has always said that thirty dollars a month is fair and that he has made no further monetary claims and questions why the tenants bring up the issue of hydro meter monitors.

The tenants gave the following testimony:

The tenants stated that they are not on a fixed term agreement as the parties have not signed any papers. The tenants stated that they had made several requests to the landlord to have their tenancy agreement in writing. The tenants stated that the landlord was making outrageous claims as to their hydro consumption and that they decided to purchase hydro meter monitors to prove to the landlord that the usage was far below what he thought it was. The tenants stated that they wish to remain but will move if given a proper notice. The tenants stated that they received an e-mail that stated that the landlord did not wish to extend the term of the "lease" but did not give details.

Analysis

Upon reviewing the testimony and documentation I am satisfied that the tenancy is currently a fixed term tenancy. However, without any written documentation to the terms of that tenancy I am unable to ascertain whether the tenants were required to move out at the end of the term or if the tenancy became a month to month agreement. The landlord stated that all the terms of the agreement were discussed at a coffee shop, an allegation that the tenants deny. The Policy Guidelines addresses this issue as follows:

If, on the date specified as the end of a fixed term tenancy agreement that does not require the tenant to vacate the rental unit on that date, the landlord and tenant have not entered into a new tenancy agreement, the landlord and tenant are deemed to have renewed the tenancy agreement as a month to month tenancy on the same terms.

There is no documentation that states that the tenants were to move out at the end of the term. I find that this tenancy becomes a month to month tenancy as of July 1, 2014.

Based on the above finding if a landlord wishes to end a tenancy he must follow section 45 of the MHPTA

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

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the manufactured home site,
- (c) state the effective date of the notice,
- (d) except for a notice under section 38 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) **when given by a landlord, be in the approved form.**

As there has not been a notice issued in accordance with Section 45 I find that the tenancy continues.

The tenants are seeking \$250.00 for the recovery of hydro meter monitors. I accept that the landlord has made no financial claims in regards to increased consumption and stated numerous times during the hearing that "thirty dollars a month is fair, I'm not asking for anymore". Based on all of the evidence before me I find that this purchase was unnecessary and I dismiss this portion of the tenants claim.

The tenants applied to have the landlord comply with the Act. The tenant stated that she would gladly move out if the landlord gave the proper notice "and just did things the right way". As the tenants have not made a specific claim in this regard I dismiss this portion of the tenants application.

Conclusion

The tenancy continues. The landlords request for an order of possession is dismissed.

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: July 2, 2014

Residential Tenancy Branch