



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LAZY S J HOLDINGS INC
and [tenant name suppressed to protect privacy]

Decision

Dispute Codes: CNC, CNR, FF

Introduction

This Application for Dispute Resolution by the tenant was seeking to cancel a One-Month Notice to End Tenancy for Cause dated May 27, 2014. The application also indicates that the tenant is seeking to cancel a Ten Day Notice to End Tenancy for Unpaid Rent.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The participants had an opportunity to submit documentary evidence prior to this hearing, and the evidence has been reviewed. The parties were also permitted to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the affirmed testimony and relevant evidence that was properly served.

The parties testified that the tenant paid the rental arrears which would cancel the 10-Day Notice to End Tenancy for Unpaid Rent. Therefore, the tenant's request to cancel the 10-Day Notice to End Tenancy for Unpaid Rent is no longer before me to consider. Only the portion of the application requesting to cancel the One Month Notice to End Tenancy for Cause will be considered..

Issue(s) to be Decided

Should the One Month Notice to End Tenancy for Cause be cancelled?

Background and Evidence

Submitted into evidence was a copy of the One-Month Notice to End Tenancy for Cause dated May 27, 2014 showing an effective date of July 1, 2014. The One-Month Notice to Notice to End Tenancy for Cause indicated that the tenancy is being terminated because the tenant's rent was repeatedly paid late.

The landlord testified that the tenancy agreement indicates that the rent is due on the first day of each month. The landlord pointed out that the tenant is chronically late in paying, usually submitting the funds several days after the first day of the month.

According to the landlord, the tenant was cautioned verbally about this practice more than once and was recently issued a written warning.

The tenant testified that he has been a tenant in the park for 8 or 9 years and, prior to the new ownership, it was an acceptable term of his tenancy that he could pay the rent based on when his pay cheque was issued to him.

The tenant acknowledged that he is now aware that the rent is due on the first day of each month under his tenancy agreement and that repeated late payment of rent is a valid ground to end a tenancy. The tenant stated that he will pay on time in future.

Analysis

Section 20(1) of the Act states that a tenant must pay rent when it is due under the tenancy agreement.

Although no copy of the written tenancy agreement is in evidence, I accept the landlord's testimony that there is a term in the agreement specifying that rent must be paid on the first day of each month.

I also accept the tenant's testimony that, prior to signing a written agreement with the new owner, there was an informal arrangement in which the former landlord allowed payment of rent based on the day that the tenant was paid.

In regard to enforcing tenancy terms that were not previously enforced, I find that it is a fundamental principle of natural justice that a party has the right to be warned of the consequences of not complying with their agreement and to be given a fair opportunity to correct the behaviour.

The landlord stated that a verbal caution about paying the rent on time had been given to residents in the park when the new owner took charge. In this instance, I find that the landlord also issued a written warning to the tenant, but this occurred only one day prior to serving the tenant with the One-Month Notice to End Tenancy for Cause.

I find that the tenant has made a commitment to cease his long-standing practice of paying the rent after the first day of each month and to comply with the Act and agreement by submitting his rent to the landlord on time.

Given the above, I find it necessary to cancel the One Month Notice. However, the tenant is cautioned that this decision will serve as a warning and the tenant is now aware that late payments of rent will function as a valid reason to justify ending the tenancy for cause.

I hereby grant the tenant's request to cancel the landlord's One-Month Notice to End Tenancy for Cause dated May 27, 2014 and I order that the Notice is of no force or effect.

I find that the tenant is entitled to be reimbursed for the cost of this application and I order that the tenant reduce the next rent payment by \$50.00 as a one-time abatement.

Conclusion

The tenant is successful in the application and the One-Month Notice to End Tenancy for Cause is canceled.

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: July 24, 2014

Residential Tenancy Branch

