



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Vista Village Trailer Park Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNR CNR FF

Introduction

This hearing dealt with applications by the landlord and the tenants. The landlord applied for an order of possession pursuant to a notice to end tenancy and a monetary order for unpaid rent. The tenants applied to cancel the notice to end tenancy. Two agents for the landlord and the tenants participated in the teleconference hearing.

During the hearing the parties confirmed that the rent is currently up to date. I therefore dismissed the portion of the landlord's application regarding a monetary order.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Background and Evidence

The tenants rent a site in a manufactured home park that is located at a remote distance from the landlord's business address.

On July 9, 2014 the landlord issued a notice to end tenancy for failure to pay July 2014 rent. The landlord stated that they sent the notice to the tenants by registered mail sent on July 9, 2014. The tenants stated that they received the notice on July 17, 2014. On July 21, 2014 the tenants applied to cancel the notice. I accepted the tenants' evidence

regarding the date they received the notice, and found that they made their application in time.

The landlord stated that they did not receive the tenants' rent for July 2014 until August 21, 2014. The landlord stated that they gave the tenants receipts indicating that they were accepting payments for use and occupancy only. The landlord's records indicate that the tenants' rent was paid as follows:

February 3, 2014 for February rent;
March 3, 2014 for March rent;
April 1, 2014 for April rent;
May 1, 2014 for May rent; and
June 1, 2014 for June rent.

However, in the hearing the landlord acknowledged that in recent months the tenants paid their rent early.

The tenants stated that they sent their July 2014 rent with a money order mailed on June 6, 2014. The tenants submitted copies of several Canada Post receipts for money orders payable to the landlord. The receipts are dated as follows:

January 14, 2014 (for February rent);
February 14, 2014 (for March rent);
March 3, 2014 (for April rent);
April 16, 2014 (for May rent);
May 9, 2014 (for June rent); and
June 6, 2014 (for July rent).

The tenants stated that they were unaware that the landlord had not received the June 6, 2014 money order until they were served with the notice to end tenancy for unpaid rent. The tenants stated that there was a waiting period before they could have the money order reissued. Once the tenants obtained the reissued money order they gave it to the landlord.

Analysis

I find that the notice to end tenancy for unpaid rent dated July 9, 2014 is not valid.

I accept the evidence of the tenants and the landlord that the tenants had been paying their rent early for several months, by mailing a money order to the landlord. I also

accept the evidence of the tenants that they mailed a money order for their July rent to the landlord on June 6, 2014. The tenants had to send their rent by mail because the landlord chose to do business remotely.

If the landlord did not receive the money order dated June 6, 2014, it was through no fault of the tenants. The landlord's own evidence shows that their practice was to not record the rent as having been received early, despite the fact that they did receive it early. As soon as the tenants received the notice to end tenancy and became aware that the landlord had not received the July rent, they took immediate steps to remedy the situation. It was also through no fault of the tenants that Canada Post required a waiting period before they would re-issue the money order.

As the landlord's application was not successful, they are not entitled to recovery of the filing fee for the cost of their application.

As the tenants' application was successful, they are entitled to recovery of their filing fee for the cost of their application.

Conclusion

The landlord's application is dismissed.

The notice to end tenancy for unpaid rent dated July 9, 2014 is cancelled. The tenancy continues until such time as it ends in accordance with the Act.

The tenants are entitled to recovery of their \$50 filing fee, and they may deduct this amount from their next payment of rent.

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: September 22, 2014

Residential Tenancy Branch

