



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNC

Introduction

This hearing was convened in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied to set aside a Notice to End Tenancy for Cause.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, to call witnesses, and to make submissions to me.

The Tenant stated that sometime in August of 2014 the Application for Dispute Resolution, the Notice of Hearing, and documents he wishes to rely upon as evidence were personally served to the Landlord. The Landlord acknowledged receipt of these documents.

The Landlord submitted no evidence.

Preliminary Matter

The Landlord and the Tenant agree that the Tenant lives in a bus, which is not owned by the Landlord. The parties agree that the Tenant rents the site on which the bus is parked.

The Landlord and the Tenant were advised that this relationship is governed by the *Manufactured Home Park Tenancy Act (Act)*, rather than the *Residential Tenancy Act*, and that I would be applying the *Manufactured Home Park Tenancy Act* when considering this matter.

Issue(s) to be Decided

Should the Notice to End Tenancy for Cause be set aside?

Background and Evidence

The Landlord and the Tenant agree that the Tenant has been occupying this site for many years, for which he currently pays rent of \$475.00.

The Landlord and the Tenant agree that on August 07, 2014 the Tenant was personally served with a One Month Notice to End Tenancy for Cause, which declared that the Tenant must vacate the site by September 30, 2014. The Tenant filed an Application for Dispute Resolution to dispute the Notice on August 11, 2014.

The Landlord and the Tenant agree that the reason for ending the tenancy cited on the Notice to End Tenancy was that the unit/site must be vacated to comply with a government order.

The Landlord stated that sometime in June of 2014 the Landlord received a letter from the Cowichan Valley Regional District, which informed the Landlord that the site is “non-conforming” and that the bus in which the Tenant lives must be moved. The Landlord did not submit a copy of the letter as evidence. The Landlord could not read the letter into evidence as he did not have it with him at the time of the hearing.

The Landlord and the Tenant agree that the Tenant has never been provided with a copy of the letter.

Analysis

Section 40 of the *Act* authorizes a landlord to end a tenancy if the manufactured home site must be vacated to comply with an order of a federal, British Columbia, regional or municipal government. The burden of proving that there is an order requiring the site to be vacated rests with the Landlord.

I find that the Landlord has submitted insufficient evidence to show that there is an order from the Cowichan Valley Regional District requiring that site to be vacated. In reaching this conclusion I was heavily influenced by the fact that the Landlord did not provide a copy of the letter from the Cowichan Valley Regional District. In the absence of the letter, I am unable to determine if the Landlord has correctly interpreted the content of the letter.

In reaching this conclusion I was also influenced by the fact that the Landlord did not have a copy of the letter from the Cowichan Valley Regional District with him at the time of the hearing and he could not, therefore, read the letter into evidence. In the absence of the letter being read into evidence, I am unable to determine if the Landlord has correctly interpreted the content of the letter.

After considering all of the written and oral evidence submitted at this hearing, I find that the Landlord has provided insufficient evidence to show that there is an order requiring the site to be vacated rests with the Landlord. I therefore grant the Tenant's application to set aside this Notice to End Tenancy.

Conclusion

As I have set aside the One Month Notice to End Tenancy, dated August 07, 2014, I order that this tenancy continue until it is ended in accordance with the Act.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: October 09, 2014

Residential Tenancy Branch

