



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes MT, CNR, MNDC, OLC, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking more time to cancel a notice to end tenancy; to cancel a notice to end tenancy; for an order to have the landlord comply with the *Manufactured Home Park Tenancy Act (Act)*, regulation or tenancy agreement; and a monetary order.

The hearing was conducted via teleconference and was attended by the tenant; his advocate and his witness; the landlord and two agents.

At the outset of the hearing the tenant clarified that he was seeking to cancel a 10 Day Notice to End Tenancy for Unpaid Rent for two sites in the park; that these are both his manufactured homes; that the notices were issued on the same day; and he is responsible for the payment of the rent for both sites.

While normally in such a circumstance both notices and claims for compensation would be required to be disputed through separate Applications for Dispute Resolution for each tenancy I allowed the matters to be heard on both tenancies.

In addition, at the start of the hearing, the landlord testified that the tenant had paid the rent for both sites within the required time frames to invalidate the Notices and she is not pursuing the end of the tenancy. As such, I am satisfied both 10 Day Notices to End Tenancy for Unpaid Rent issued on October 28, 2014 are not enforceable. I dismiss this portion of the tenant's Application.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for compensation and an order to have the landlord comply with the *Act*, regulation or tenancy agreement and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 22, 60, and 65 of the *Act*.

Background and Evidence

The landlord submits the tenancies began on April 1, 2013 on a month to month basis for the current monthly rent of \$385.00 due on the 1st of each month.

The tenant submits that the landlord has a pattern of not accepting or cashing tenants' rent cheques in the park and then issuing them a 10 Day Notice to End Tenancy for Unpaid Rent. The tenants have submitted file numbers for three recent arbitration decisions that they assert show this propensity on the part of the landlord.

I include a brief summary of each of these three cases:

- Decision of September 22, 2014 – the landlord asserted that she failed to receive payment of rent prior to the date that it was due; the tenants accepted the landlord did not receive the payment and issued a new payment. The notice was cancelled;
- Decision of September 24, 2014 – the parties agreed that Canada Post had never delivered the tenant's rent payment and despite several discussions and miscommunications between the parties the rent had gone unpaid. The landlord was granted an order of possession to be enforced only if the tenant failed to provide payment of the outstanding amounts within 5 days of receipt of the decision; and
- Decision of October 22, 2014 – the tenants were in the process of attempting to sell their manufactured home and indicated that it had slipped their minds that the landlord had run out of post-dated cheques, however once they received the 10 Day Notice to End Tenancy for Unpaid Rent they immediately paid the rent. As a result the arbitrator cancelled the Notice.

The tenant submits that he had been attempting to contact the landlord to find out if she had run out of post-dated cheques but that she never received any call back from her. The landlord submits she received his message and called him back and left a message for him but that he never returned her call. She also stated the tenant did not leave a detailed message as to what it was he was inquiring about when he left his message.

The tenant submits that the notices that were issued on October 28, 2014 from the landlord were issued on the same day of another decision on an issue between the tenant's mother and the landlord. The tenant submits that they had not been aware that the landlord did not have any post-date cheques but that when they were made aware they provided the landlord with payment for rent for both sites for the months of October and November 2014. The landlord submits that after she mailed the Notices she received the payment.

The tenant also submits the landlord issued another notice for rent due for December 2014. He stated that despite rent being due on the 1st of the month he provided payment dated the 3rd of December, 2014.

The tenant submits that he feels he is harassed by the landlord on the issue of the payment of rent and that by her patterns of issuing these notices he has undergone stress and has to take time out of his schedule to deal with these issues.

The tenant submits that the landlord has been harassing him in regard to a number of different issues, as well, including:

- The removal of a shed that did not conform to park rules which he replaced and the landlord now says he did not get written permission from the landlord for the replacement shed. The tenant testified that he had discussed replacing the original shed with the landlord and thought that was sufficient;
- The use and parking of motorbikes in the park and a number of other issues; and
- That she even told him his homes would have to be removed because they were over a certain age (the landlord disputes she ever suggested this to the tenant).

The landlord acknowledges that she has had to deal with the tenant over a number of issues because she says the tenant does not follow any of the rules and when he doesn't she has to have discussions and/or provide warnings to him about the breaches.

Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

While the tenant submits that the landlord has a pattern of issuing notices to end tenancies for unpaid rent unnecessarily I find, based on the decisions that the tenant submitted, that in each of the cases, as well as the two notices issued for these two tenancies, the rent had not been paid by the tenants at the time the notices were issued.

As such, I find that this cannot be considered harassment on the part of the landlord as the *Act* allows the landlord to issue a 10 Day Notice to End Tenancy for Unpaid Rent if,

on any day after it was due in the tenancy agreement, the landlord has not received the payment of rent from the tenant.

Further, I find that by the landlord informing and cautioning the tenant when he may be in breach of the tenancy agreement or park rules she is also fulfilling her obligations under the *Act* by identifying a problem and providing the tenant with an opportunity to correct any breaches.

If the tenant doesn't want the landlord to approach him in regard to breaches he should be well-versed in his obligations under the *Act*, regulation and tenancy agreement and ensure that he follows them so that there will be no need for the landlord to provide him with cautions and warnings.

As such, I find the tenant has failed to establish that the landlord has breached the *Act*, regulation or tenancy agreement. As a result, I find the tenant has failed to provide any evidence of harassment that would warrant any compensation.

Conclusion

Based on the above, I dismiss the tenant's Application for Dispute Resolution in its entirety.

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: December 18, 2014

Residential Tenancy Branch

