



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Willow Beach Dev. Ltd c/o Destert Aire Realty
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant for an order cancelling a notice to end tenancy for cause and to recover the filing fee from the landlord for the cost of the application.

The tenant attended the hearing and gave affirmed testimony, however, despite being served with the Tenant's Application for Dispute Resolution and notice of this hearing by registered mail on March 5, 2015, no one for the landlord attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participant who joined the call was the tenant. The tenant testified that the documents were served on that date and in that manner and orally provided a tracking number assigned by Canada Post, and I am satisfied that the landlord has been served in accordance with the *Manufactured Home Park Tenancy Act*.

All evidence and testimony of the tenant is considered in this Decision.

Issue(s) to be Decided

Should the notice to end the tenancy given by the landlord be cancelled?

Background and Evidence

The tenant testified that this tenancy began in or near September, 2012. The tenant resided in another manufactured home within the manufactured home park previously. The tenant still resides in the manufactured home that the landlord and tenant have a written tenancy agreement for, although a copy was not provided for this hearing. Rent

in the amount of \$300.00 per month is payable in advance on the 1st day of each month and there are no rental arrears.

The tenant further testified that the landlord served the tenant personally with a 1 Month Notice to End Tenancy for Cause on February 19, 2015. A copy of the notice has been provided and it is dated February 19, 2015 and contains an expected date of vacancy of April 1, 2015. The reasons for issuing the notice are:

Tenant or a person permitted on the property by the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord;
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
- put the landlord's property at significant risk.

The tenant also testified that the manager of the manufactured home park and the tenant have had conversations since the issuance of the notice and believes the parties have resolved the dispute, however, the manager has not been clear.

The tenant seeks an order cancelling the notice and to recover the filing fee.

Analysis

Where a tenant disputes a notice to end the tenancy given by a landlord, the onus is on the landlord to establish that it was issued in accordance with the *Manufactured Home Park Tenancy Act* which can include the reasons for issuing it. In this case, I have reviewed the notice and I find that it is in the approved form and contains information required by the *Act*, however I have no evidence of the reasons for issuing the notice. Having found that the landlord has been served in accordance with the *Act*, I also find that the landlord has failed to establish that the landlord had cause to issue the notice or that the notice was issued in accordance with the *Act*, and I hereby cancel it.

Since the tenant has been successful with the application, the tenant is also entitled to recovery of the \$50.00 filing fee. I hereby order the tenant to reduce rent for a future month by that amount as recovery.

Conclusion

For the reasons set out above, the 1 Month Notice to End Tenancy for Cause dated February 19, 2015 is hereby cancelled and the tenancy continues.

I hereby order the tenant to reduce rent by \$50.00 for a future month as recovery of the filing fee.

These orders are final and binding.

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: April 07, 2015

Residential Tenancy Branch

