



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, CNR, OLC, MNDC, PSF

Introduction

This hearing which commenced at 9:00 am dealt with two related applications. One was the landlords' application for an order of possession based upon a 1 Month Notice to End Tenancy for Cause. The other was the tenant's application for orders setting aside a 10 Day Notice to End Tenancy for Non-Payment of Rent; compelling the landlord to comply with the Act, regulation or tenancy agreement; compelling the landlord to provide services or facilities required by law; and awarding the tenant financial compensation.

Although served with the landlords' Application for Dispute Resolution and Notice of Hearing by personal service on March 16, 2016, and despite having his own application set for hearing on this date, the tenant did not appear. In the absence of an appearance by the applicant by 9:26 am, his application is dismissed, without leave to re-apply.

The landlords advised that the tenant had misspelled their names on his Application for Dispute Resolution. The tenant's application is amended to reflect the correct spelling of the landlords' names.

Issue(s) to be Decided

Are the landlords entitled to an order of possession and, if so, on what terms?

Background and Evidence

The month-to-month tenancy commenced February 1, 2013. The monthly rent of \$474.38 is due on the first day of the month.

The landlords testified that on February 26, 2016, they issued and personally served the tenant with a 1 Month Notice to End Tenancy for Cause. The landlords have not been served with an application by the tenant to dispute this notice.

The landlords filed photographs of the damage the tenant has done to his own manufactured home and letters from two of his neighbours. They testified that the tenant's home is inhabitable as a result of the damage. They also testified that the police have been to the tenant's unit more than thirty times in the past few months.

Analysis

Although the tenant filed a copy of the 1 Month Notice to End Tenancy for Cause as part of his evidence and although he was advised to amend his Application for Dispute Resolution to include a request for an order setting aside that notice, he did not do so.

Section 40(4) of the *Manufactured Home Park Tenancy Act* provides that a tenant who has been served with a 1 Month Notice to End Tenancy may dispute the notice by filing an application with the Residential Tenancy Branch within ten days after the date the tenant receives the notice.

Section 40(5) sets that a tenant who does not file an application with Residential Tenancy Branch disputing the notice within the time limit is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date.

This information is set out on the second page of the notice to end tenancy form.

As the tenant did not file an application to dispute the notice he is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice.

Further the evidence filed by the landlords was graphic. I am satisfied that the landlords have established that the tenant, or person(s) permitted on the site by the tenant have significantly interfered with or unreasonably disturbed another occupant or the landlord. Accordingly, I find that the landlords are entitled to an order of possession.

A significant portion of the tenant's rent is paid directly to the landlords by the Ministry and they have received most of the rent for April. In light of these circumstances I order that the effective date of the order of possession will be 1:00, April 30, 2016.

Conclusion

- a. An order of possession effective **1:00 pm, April 30, 2016**, has been granted to the landlords. If necessary, this order may be filed in the Supreme Court and enforced as an order of that court.

- b. As the landlords were successful on their application they are entitled to reimbursement from the tenant of the **\$100.00** fee they paid to file it and I grant the landlords a monetary order pursuant to section 60 in that amount. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that court.

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 13, 2016

Residential Tenancy Branch