



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Cornerstone Properties Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for an Order of Possession for cause and to recover the filing fee from the tenant for the cost of the application.

An agent for the landlord attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant attended. The landlord's agent testified that the tenant was served with the hearing package and evidentiary material, including the Landlord Application for Dispute Resolution and notice of this hearing by registered mail on May 23, 2016. The landlord has also provided a copy of a Registered Domestic Customer Receipt stamped by Canada Post and a Canada Post cash register receipt bearing that date, and I am satisfied that the tenant has been served in accordance with the *Manufactured Home Park Tenancy Act*.

All evidence and the testimony of the landlord's agent is considered in this Decision.

Issue(s) to be Decided

Is the landlord entitled under the *Manufactured Home Park Tenancy Act* to an Order of Possession for cause?

Background and Evidence

The landlord's agent testified that this tenancy began in September, 2014 and the manufactured home still remains in the manufactured home park. Rent in the amount of \$371.00 per month was originally payable on the 1st day of each month, but has been increased during the tenancy. The tenant's mother had resided in the manufactured home prior, but upon passing, the tenant named in this dispute took over the tenancy.

However, without the landlord's knowledge the tenant rented the manufactured home to another party.

The landlord's agent further testified that on May 26, 2016 the tenant was served by registered mail with a 1 Month Notice to End Tenancy for Cause, a copy of which has been provided. It is dated May 25, 2016 and contains an effective date of vacancy of June 30, 2016. The reasons for issuing it 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;
- Tenant has engaged in illegal activity that has, or is likely to:
 - jeopardize a lawful right or interest of another occupant or the landlord.

The landlord's agent also testified that a copy of the 1 Month Notice to End Tenancy for Cause was served to the tenants who currently reside in the manufactured home.

The landlord has not been served with an application for dispute resolution by the tenant disputing the notice, and the landlord seeks an Order of Possession.

Analysis

The *Manufactured Home Park Tenancy Act* states that where a tenant is served with a 1 Month Notice to End Tenancy for Cause, the tenant has 10 days to dispute the notice by filing and serving the landlord with an application for dispute resolution. If the tenant fails to do so, the tenant is conclusively presumed to have accepted the end of the tenancy. I have reviewed the evidentiary material provided by the landlord and I am satisfied that the tenant was served with the notice on May 26, 2016 which is deemed to have been served 5 days later, or May 31, 2016. I find that the notice is in the approved form and contains information required by the *Act*. The tenant has not served the landlord with an application for dispute resolution disputing the notice, and I have no such application before me. Therefore, I find that the tenant is conclusively presumed to have accepted the end of the tenancy and the landlord is entitled under the *Act* to an Order of Possession. Since the effective date of vacancy has passed, I grant the order on 2 days notice to the tenant.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$100.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 60 of the *Manufactured Home Park Tenancy Act* in the amount of \$100.00 as recovery of the filing fee.

This order is final and binding and may be enforced.

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: July 28, 2016

Residential Tenancy Branch