



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

The tenant applies to cancel a one month Notice to End Tenancy for cause dated and received February 14, 2017. The Notice alleges that the tenant has been repeatedly late paying rent.

Such a ground, if true, is a listed ground for ending a tenancy under s. 40 of the *Manufactured Home Park Tenancy Act* (the "Act").

Both parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

Issue(s) to be Decided

Has the tenant been repeatedly late paying rent?

Background and Evidence

The most recent tenancy agreement indicates that this tenancy started November 27, 2015, though it is agreed that the tenant moved into the park in or about April 2007 or 2008. The monthly rent is \$280.00, due on the first of each month in advance.

The landlord testifies, and it is not disputed that the tenant has been a few days late paying rent in January and February 2017 and prior to that in June, August, September, November and December 2016. For at least the last five occasions, the landlord has issued a ten day Notice to End Tenancy for unpaid rent.

The tenant says that work conditions and his health conditions have caused him significant financial instability.

Analysis

Residential Tenancy Policy Guideline 38, "Repeated Late Payment of Rent" states that three late payments are the minimum number sufficient to justify a Notice to End Tenancy.

It is clear that the tenant has been repeatedly late paying rent. The fact that the landlord issued ten day Notices shows that she did not agree or acquiesce to the late payments.

The tenant's financial circumstances are not a factor that can be considered in determining whether or not his repeatedly late rent payments justify the giving of the Notice. The bare fact of being repeatedly late through no fault of the landlord is all that needs to be established.

The Notice given by the landlord is a valid Notice. The tenant's application to cancel it must be dismissed.

Section 48 of the *Act* requires that the landlord receive an order of possession where, as here, the tenant's application to cancel a Notice fails. The landlord will have an order of possession.

The Notice claims an effective date of March 15, 2017 to end the tenancy. That date is earlier than the law (s. 40(2) of the *Act*) permits. Section 46 of the *Act* provides that the Notice is automatically corrected to the earliest lawful date. That would be March 31, 2017.

The landlord's order of possession will therefore be effective March 31, 2017.

Conclusion

The tenant's application is dismissed.

The landlord will have an order of possession.

This decision was rendered orally at hearing and 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: March 22, 2017

Residential Tenancy Branch