



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PROSPERO INTERNATIONAL REALTY INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC

Introduction

On March 21, 2017, the Landlord submitted an Application for Dispute Resolution for an order of possession based on issuance of a 1 Month Notice To End Tenancy For Cause.

The matter was set for a conference call hearing. The Landlord attended the teleconference hearing; however, the Tenant, or the Tenant's representative did not. The Landlord testified that he served Mr. W.P. with the Application for Dispute Resolution and Notice of Hearing, by registered mail sent on March 2, 2017. A Canada Post tracking number was provided as evidence of service. I find that Mr. W.P. was served with notice of the hearing in accordance with the Act.

The Landlord was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions at the hearing.

Preliminary and Procedural Matters

The Landlord corrected the spelling of the Tenant's first name within the Landlord's Application. The Application is amended to the corrected spelling.

Issues to be Decided

- Is the Landlord entitled to an order of possession for cause?

Background and Evidence

The tenancy agreement provided by the Landlord indicates that the manufactured home site rental began in August, 2005. Rent in the amount of \$540.00 is to be paid on the first day of each month.

The Landlord testified that the Tenant passed away in December 2015. He testified that Mr. W.P. verbally informed him that he was the executor of the Tenant's estate but did not produce any documents to prove such. The Landlord testified that he has

attempted to contact Mr. W.P. but Mr. W.P. will not respond. The Landlord testified that he sent a copy of the Notice of Hearing to the address provided by Mr. W.P. using registered mail.

The Landlord testified that sister of Mr. Mr. W.P is living in the unit. The Landlord testified there is no tenancy agreement with Mr. W.P. or the sister.

The Landlord testified that there are concerns with the sister living in the unit. The Landlord submitted that there have been noise complaints and the sister does not meet the age 55 requirements to live in the park.

The Landlord testified that a copy of the park rules was sent to the occupant, but the occupant has not vacated.

The Landlord issued a 1 Month Notice to End Tenancy for Cause ("the Notice") by posting it on the Tenant's door on December 2, 2016. The reasons checked off by the Landlord within the Notice are as follows:

- Tenant has allowed an unreasonable number of occupants in the unit /site.
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written Notice to do so.

The Notice states the Tenant must vacate the site by January 31, 2017. The Notice informed the Tenant that she has the right to dispute the Notice within 10 days after receiving it. The Notice informed the Tenant that if an application to dispute the Notice is not filed within 10 days, the Tenant is presumed to accept the Notice and must move out of the unit on the date set out on page 1 of the Notice.

There is no evidence before me that that the Tenant, or occupant, made an application to dispute the Notice.

The Landlord seeks an order of possession effective immediately.

Analysis

Under the Act, the definition of "tenant" includes the estate of a deceased tenant.

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenancy agreement ended when the Tenant passed away. I find that the Landlord did not enter into a new tenancy agreement with anyone.

There is no documentary evidence before me to establish that Mr. W.P. is the executor of the Tenant's estate. I accept the Landlords evidence that Mr. W.P. is not responding to the Landlord's calls. I find that avoidance of the Landlord is contrary to the

expectations of someone who is the executor of an estate. As such, I do not find that the Landlord was required to name Mr. W.P. within the Application.

I find that the Landlord served a 1 Month Notice To End Tenancy For Cause, by posting it to the door, and the occupant of the unit ignored it. I also find that the Landlord served Mr. W.P. with notice of this hearing and Mr. W.P. failed to attend.

The 1 Month Notice was not disputed within 10 days after it was issued. I find that any person legally entitled to act as the representative of the Tenant did not dispute the Notice. Pursuant to section 40(5) of the Act the tenancy ended on the effective date of the Notice.

I find that the Landlord is entitled to an order of possession, pursuant to section 48 of the Act, effective immediately. This order may be filed in the Supreme Court and enforced as an order of that Court. Costs of such enforcement may be recoverable from the estate of the Tenant.

Conclusion

The Landlord served a notice to end tenancy which was not disputed. Mr. W.P. who verbally informed the Landlord he was the executor was served with notice of the hearing and failed to attend the hearing. The Notice to end tenancy was not disputed. The tenancy ended on the effective date of the 1 Month Notice.

The Landlord is granted an order of possession effective at 1:00 on April 30, 2017.

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 27, 2017

Residential Tenancy Branch