



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNLC, FF

Introduction

The Tenant filed an Application for Dispute Resolution in which the Tenant applied to cancel a Notice to End Tenancy for Conversion of Manufactured Home Park and to recover the fee for filing an Application for Dispute Resolution.

The Agent for the Tenant stated that she personally served the Landlord with the Application for Dispute Resolution and the Notice of Hearing, although she cannot recall the date of service. The Landlord acknowledged receipt of these documents.

On June 22, 2017 the Landlord submitted 8 pages of evidence to the Residential Tenancy Branch. The Landlord stated that this evidence was served to the Tenant, in person, on June 19, 2017. The Agent for the Tenant acknowledged receipt of this evidence and it was accepted as evidence for these proceedings.

On June 22, 2017 the Landlord submitted a USB device to the Residential Tenancy Branch. The Landlord stated that this evidence was served to the Tenant, in person, on June 19, 2017. The Agent for the Tenant acknowledged receiving the USB device but neither she nor the Tenant have been unable to access the digital evidence. The Landlord stated that he did not ask the Tenant if he was able to view the USB device.

Rule 3.10 of the Residential Tenancy Branch Rules of Procedure stipulates that the format of digital evidence must be accessible to all parties and that before the hearing the party submitting the digital evidence must determine that the other party and the Residential Tenancy Branch have playback equipment or are otherwise able to gain access to the evidence. The rule further stipulates that if a party is unable to access the digital evidence, the arbitrator may determine that the digital evidence will not be considered. As the Tenant is unable to view the digital evidence, the USB was not accepted as evidence for these proceedings.

The Landlord stated that there are 5 digital images on the USB device and that the Tenant was served with photographs of those images. The Agent for the Tenant acknowledged receipt of 5 photographs. The Landlord stated that these photographs were not submitted to the Residential Tenancy Branch. As the photographs were not submitted to the Residential Tenancy Branch, they were not accepted as evidence for these proceedings.

The Landlord and the Agent for the Tenant agree that the photographs are photographs of the condition of the rental site. As these photographs are not directly related to the issues in dispute at these proceedings, I did not adjourn the hearing to provide the Landlord with the opportunity to submit them to the Residential Tenancy Branch.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. The parties were advised of their legal obligation to speak the truth during these proceedings.

Issue(s) to be Decided

Should a Notice to End Tenancy for Conversion of Manufactured Home Park, served pursuant to section 42 of the *Act*, be set aside?

Background and Evidence

The Agent for the Tenant and the Landlord agree that the Tenant was not served with a Notice to End Tenancy for Conversion of Manufactured Home Park.

Analysis

As the Tenant was not served with a Notice to End Tenancy for Conversion of Manufactured Home Park, I dismiss the Tenant's application to set aside a Notice to End Tenancy for Conversion of Manufactured Home Park.

I find that the Tenant has failed to establish the merit of the Application for Dispute Resolution and I therefore dismiss the application to recover the fee for filing this Application for Dispute Resolution.

Conclusion

The Application for Dispute Resolution is dismissed, without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: June 28, 2017

Residential Tenancy Branch