



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0868732 BC LTD Sunrise Trailer Court
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing was convened in response to an application by the Tenant for an order cancelling a notice to end tenancy pursuant to section 39 of the *Manufactured Home Park Tenancy Act* (the "Act").

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Tenant entitled to a cancellation of the notice to end tenancy?

Background and Evidence

The tenancy started on September 1, 2014. Rent of \$343.00 is payable on the first day of each month. On May 12, 2017 the Landlord served the Tenant with a 10 day notice to end tenancy for unpaid rent (the "Notice") by posting the Notice on the door. The Notice indicates that the Tenant failed to pay \$263.00 that was due May 1, 2017.

The Landlord states that the Tenant missed the rent payment for March 2017. The Landlord provided a copy of its accounting to show that no rent payment for March 2017 was entered as being received. The Landlord's Bookkeeper states that she cannot provide evidence for the March 2017 accounting as she only started working for the Landlord in April 2017 and that a previous company did the books for the Landlord for that period.

The Tenant states that she provided to the Landlord a year's worth of post-dated cheques starting January 2017 with cheque #067. The Tenant provided the cheque numbers for each monthly cheque and it is noted that they are in numeric order with the cheque number for March 2017 being #069. The Tenant states that the cheques each contained an error with a \$10.00

shortfall and that the Tenant made this up on January 31, 2017 with an email transfer of \$120.00 for the year's shortfall. It is noted that this amount is indicated as received in the Landlord's accounting documents. The Landlord states that he currently has cheque #073 for the upcoming July 2017 rent payment and the subsequent cheques to the end of the year. The Tenant states that the all of her cheques to date have cleared her bank account. The Landlord confirms that rent for April 2017 was received. The Tenant provides a copy of a bank statement showing cheque #069 for \$333.00 clearing on March 2, 2017.

It is noted that the Landlord did not receive as evidence the copy of the Tenant's bank statement showing the March 2017 clearance of the cheque but declines an adjournment to obtain a copy as the Landlord was satisfied by having the evidence of the bank statement read by the Arbitrator.

Analysis

Where a notice to end tenancy comes under dispute, the landlord has the burden to prove, on a balance of probabilities, that the tenancy should end for the reason or reasons indicated on the notice. Given the Tenant's oral and documentary evidence of payment of March 2017 rent and considering that the Landlord did not provide any evidence from its previous accounting personnel, I find that the Landlord's accounting documents for March 2017 shows an error and that the Tenant did pay the rent as stated. I find therefore that the March 2017 rent was paid, the Notice is not valid and that the Tenant is entitled to its cancellation.

Conclusion

The Notice is cancelled and the tenancy continues.

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: June 13, 2017

Residential Tenancy Branch