



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HJK ENTERPRISES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the *Manufactured Home Park Tenancy Act*, (the “Act”), for an order of possession, and an order to recover the cost of filing the application from the tenants.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to recover the cost of the filing fee?

Background and Evidence

The landlord testified that they served the tenants with a 1 Month Notice to End Tenancy for Cause (the “Notice”), issued on April 22, 2017, by registered mail. A Canada post tracking number and a Canada post history was submitted as evidence.

The Canada post history indicates that on April 26, 2017, a notice card was left for the tenants indicating where and when to pick up item. On May 1, 2017, a final notice was left.

The tenant testified that they did not get anything from Canada post. The tenant acknowledged that they did receive a copy of the notice to end tenancy sometime in June and that they did not dispute that notice.

The Notice explains the tenants had ten days to dispute the Notice. The Notice further explains if the Notice is not disputed within the ten days that the tenants are presumed to accept the Notice and must move out of the rental unit by the date specified in the Notice.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this case, the landlord sent a copy of the Notice by registered mail on April 22, 2017. The evidence supports the tenants were left two cards by Canada post to pick up the package.

Section 83 of the Act determines that a document served in this manner is deemed to have been served five days later. Refusal or neglect to pick up the items does not override the deemed service provision of the Act.

While the evidence of the tenant was that they did not get a card from Canada post, I find that highly unlikely. The tenants provide no evidence, such as a letter from Canada post indicating they made an error.

Further, the tenant acknowledged that they received a copy of the Notice in June 2017, and did not dispute it.

I find the tenants did not apply to dispute the Notice and are therefore conclusively presumed under section 40(4) of the Act to have accepted that the tenancy ended on the effective date of the Notice which was May 31, 2017.

As rent remains outstanding, I find the landlord is entitled to an order of possession effective **two (2) days** after service of this Order upon you. This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

I find that the landlord has established a total monetary claim of \$100.00 to recover the filing fee from the tenants for this application, the landlord is granted a formal order pursuant to section 60 of the Act..

Conclusion

The tenants failed to dispute the Notice. The tenants are presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession, and a monetary order to recover the filing fee from the tenants.

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 10, 2017

Residential Tenancy Branch