



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. An order to cancel the one month Notice to End Tenancy dated June 20, 2017
- b. An order to recover the cost of the filing fee.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Notice to End Tenancy was served on the Tenant by mailing, by registered mail to where the tenant resides on June 20, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on July 2, 2017. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the Notice to End Tenancy dated June 20, 2017?
- b. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence

The tenancy began on October 1, 2010 for the rental of a manufactured home pad. The tenancy agreement provided that the tenant(s) would pay rent of \$888 per month payable in advance on the first day of each month.

Grounds for Termination:

The Notice to End Tenancy identifies the following grounds:

- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so

The landlords expressed a great deal of frustration in what they see as the tenant's failure to properly maintain the manufactured home pad. They testified it has resulted a serious health and safety issue. The landlords rely on a number of warning letters that date back to August 2016.

The tenant disputes the landlords claim. She testified she has attempted to maintain the property to the best of her ability and referred to a number of complaints which she dealt with at significant expense. The tenant further testified the landlord is unclear as to what the landlord requires. Finally, she submits the tenancy agreement and Rules provide that where the tenant fails to properly maintain the pad the landlord has the right to do the work at the tenant's cost. She testified she was unaware the landlord had the right to end the tenancy and thought her greatest risk was to pay the landlord's actual cost of doing the work.

Analysis:

Both parties presented considerable evidence relating to the matters in dispute. At the end of the hearing the parties reached a settlement on a without prejudice basis.

Settlement:

The parties reached a settlement at the end of the hearing and they asked that I record the settlement pursuant to section 63(2) of the Residential Tenancy Act as follows:

1. The tenant shall maintain the manufactured home pad including cutting the grass and weeds on a regular basis.
2. The tenant shall clean the mould and mildew from the siding of the manufactured home and the shed at the back of the pad.
3. The tenant shall cut back the weeds in the backyard
4. The tenant shall ensure the shed in the backyard is secured to prevent access by rodents and vermin.
5. The tenant shall ensure the wisteria tree is trimmed back so that it is not overhanging the roof (to the front of the overhang).
6. The tenant shall remove all garbage and debris on the manufactured home pad
7. The tenant shall clean the gutters on the outside.
8. The tenant shall completely remove the blackberry bushes

9. The tenant shall comply with the “Unsightly Premises Bylaw” of Surrey a copy of which will be proved by the landlord.
10. If the tenant is uncertain as to what is required she shall ask the landlord for clarification in writing and the landlord shall provide a response in writing.
11. The work above shall be completed within 30 days of the date of this order.

Determination and Orders:

As a result of the settlement I ordered that the one month Notice to End Tenancy dated June 20, 2017 shall be cancelled on a without prejudice basis. If the tenant fails to complete the work as agreed the landlord shall have the right to serve a new one month Notice to End Tenancy on the Tenant.

I dismissed the Tenant’s claim to recover the cost of the filing fee as I determined the tenant bears a significant portion of the responsibility for the service of the Notice.

This decision is final and binding on the parties.

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: August 28, 2017

Residential Tenancy Branch