



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDC

Introduction

This hearing was convened by way of conference call in response to the Tenants' Application for Dispute Resolution (the "Application") made on August 4, 2017. The Tenants requested to cancel a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") dated August 31, 2017, and for the Landlord to comply with the *Manufactured Home Park Tenancy Act* (the "Act"), regulation or tenancy agreement.

Preliminary Matters

The Tenants appeared for the hearing and provided affirmed testimony as well as evidence prior to the hearing. However, there was no appearance for the Landlord during the 90 minute hearing or submissions of evidence. Therefore, I turned my mind to the service of documents by the Tenants.

The Tenants testified that they served a copy of the Application and the Hearing Package to the Landlord by registered mail on August 10, 2017. The Tenants provided the Canada Post tracking number into evidence to verify this method of service. The Canada Post website indicates the documents were return to the Landlord.

Section 83(a) of the Act provides that a document is deemed to have been received five days after it is mailed. A party cannot avoid service through a failure or neglect to pick up mail. Based on the undisputed evidence before me, I find the Tenants effected service on the Landlord pursuant to Section 82(2) (b) of the Act.

The Tenants provided a copy of the 1 Month Notice into evidence and confirmed that the date (August 31, 2017) was incorrect and should have read July 31, 2017, which was the date it was served to them.

Therefore, I amended the 1 Month Notice pursuant to my authority under Section 61(1) of the Act. As a result, I determined the Tenants had applied to dispute the 1 Month Notice within the ten day time limit pursuant to Section 40(4) of the Act.

The Tenants argued that they did not agree with the reasons on the 1 Month Notice for which the Landlord had elected to end the tenancy because they were now moot. Rule 7.4 of the Residential Tenancy Branch Rules of Procedure states that evidence must be presented by the party who submitted it, or by the party's agent. If a party or their agent fails to attend the hearing to present evidence, any written submissions supplied may or may not be considered.

The Landlord failed to appear for the hearing to argue and rebut the Tenants' case to have the 1 Month Notice called. The Landlord also failed to present evidence to prove that this tenancy should end. Therefore, I must now cancel the 1 Month Notice. The tenancy will continue until such time it is ended in accordance with the Act.

The Tenants informed me that their objective for their monetary claim was to get the Landlord to comply with the Act by dealing properly with a disturbing neighbour on lot 9. The Tenants described in detail the issues and disturbances caused by the problem renter but confirmed that they had not addressed this with the Landlord in writing. Accordingly, the Tenants withdrew their monetary claim and will write to the Landlord detailing the issues they are experiencing with the problem renter and asking for appropriate remedy. The Landlord will then be required to deal with the Tenants' complaints using remedies under the Act. If the Tenants feel that they have not obtained appropriate remedy, they are at liberty to file an application requesting the Landlord to comply with the Act and may also re-apply for their monetary claim. The Tenants were informed that they must meet the burden to prove their claims.

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

Dated: October 30, 2017

Residential Tenancy Branch