



Dispute Resolution Services

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Residential Tenancy Branch Office of Housing and Construction Standards

A matter regarding NEWTON MOBILE HOME PARK
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FF-T, LRE, FF-L, OPC

Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Manufactured Home Park Tenancy Act* (the “MHPTA”) for Orders as follows:

The landlords requested:

- an Order of Possession for cause pursuant to section 48; and
- authorization to recover the filing fee for this application, pursuant to section 65.

The tenant requested:

- cancellation of the landlords’ 1 Month Notice to End Tenancy Cause (“1 Month Notice”), pursuant to section 40;
- an order limiting the landlords right to enter the site or unit pursuant to section 63; and
- authorization to recover the filing fee for this application, pursuant to section 65.

While the landlords attended the hearing by way of conference call, the tenant did not. The tenant’s advocate stated that her client was aware of the hearing and that she called in for a supportive role only, and not as an agent. I waited until 11:10 a.m. to enable the tenant to participate in this scheduled hearing for 11:00 a.m.

The landlords were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

The landlords gave sworn testimony that on November 17, 2017 copies of the Application for Dispute Resolution hearing package (‘Application’) and evidence were personally served to the tenant. In accordance with sections 81 and 82 of the *MHPTA*, I find that the tenant was duly served with copies of the landlords’ application and evidence.

The landlords provided undisputed testimony that the tenant was served with the One Month Notice to End Tenancy for Cause on October 24, 2017 by way of posting it on the tenant's door. In accordance with sections 81 and 83 of the *MHPTA*, I find that the tenant was deemed served with the One Month Notice on October 27, 2017, three days after posting.

Issue(s) to be Decided

Is the tenant entitled to have the One Month Notice set aside? If not, is the landlord entitled to an Order of Possession based on the One Month Notice?

Is the tenant entitled to have an order limiting the landlords' right to enter the unit or site?

Is either party entitled to recover the filing fee for this application?

Background and Evidence

The landlord gave undisputed testimony regarding the following facts. The month to month tenancy began on October 2014, with monthly rent set at \$614.56, payable on the first of each month. The landlord testified that the tenant has had an unreasonable amount of tenants in the unit; at times the tenant had over a dozen people in the unit. The landlord testified that subletting was specifically prohibited in the tenancy agreement as well as the park rules. The landlord testified that numerous people are coming and going to the site and are engaging in illegal activity. The landlord testified that the tenant was given a One Month Notice to End Tenancy for Cause on this basis.

Analysis

Section 48(1) of the *MHPTA* reads as follows:

48 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

(a) the landlord's notice to end tenancy complies with section 45 *[form and content of notice to end tenancy]*, and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

In the absence of any evidence or submissions from the tenant, I order the tenant's application dismissed without liberty to reapply. I find that the One Month Notice complies with section 45 of the *MHPTA*. In addition, the landlord submitted documentation to support his claim that the tenant had an unreasonable amount of people in the unit. The landlord has provided sufficient evidence to satisfy me of the issuance of the Notice.

Based on my decision to dismiss the tenant's application for dispute resolution and pursuant to section 45(1) of the *MHPTA*, I find that this tenancy ended on the corrected effective date of the One Month Notice, November 30, 2017. I find that the landlord is entitled to an Order of Possession. The landlord

will be given a formal Order of Possession which must be served on the tenant. The landlord advised that they are content with an Order of Possession that takes effect at 1:00 p.m. on February 28, 2018.

I find that the landlords are entitled to recovery the \$100.00 filing fee from the tenant.

Conclusion

As the tenant did not attend this hearing, their entire application is dismissed without leave to reapply.

I issue a 100.00 Monetary Order in favour of the landlords and an Order of Possession.

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: January 03, 2018

Residential Tenancy Branch