



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR FFT OLC

Introduction

This hearing dealt with the tenant's application pursuant to the *Manufactured Home Parks Tenancy Act* ("Act") for:

- cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 39;
- an order that the landlord comply with the Act, regulations or tenancy agreement pursuant to section 55; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 65.

The landlord did not attend this hearing which lasted approximately 15 minutes. The tenant attended with his partner and co-tenant who were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The co-tenant TT testified that she served the landlord personally with the notice of dispute resolution dated January 31, 2018 on that same date in the presence of the tenant CK who witnessed service. TT testified that she subsequently served the landlord with the tenant's evidence by leaving it in a mail box at the landlord's address. Based on the undisputed evidence of the tenant I find that the landlord was served with the tenant's application for dispute resolution and evidence in accordance with sections 81 and 82 of the Act.

Issue(s) to be Decided

Should the 10 Day Notice be cancelled? If not is the landlord entitled to an Order of Possession?

Is the tenant entitled to recover the \$100.00 filing fee for this application?

Should the landlord be ordered to comply with the Act, regulations or tenancy agreement?

Background and Evidence

The tenant gave undisputed evidence at this hearing. The tenant said that the tenancy began in April, 2017. Monthly rent is \$425.00 payable on the first of each month. The tenant was served with a 10 Day Notice on January 29, 2018 and filed their application to dispute the notice on January 31, 2018.

The tenant said that there was a previous hearing under the file number on the first page of this decision where the tenant was issued a monetary award. The tenant said that the landlord has not complied with the monetary order and seeks an order that the landlord comply.

Analysis

In accordance with subsection 46(4) of the *Act*, the tenant must either pay the overdue rent or file an application for dispute resolution within five days of receiving a 10 Day Notice. Where a tenant applies to dispute a 10 Day Notice, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the 10 Day Notice is based.

As the landlord did not attend this hearing I find that the landlord has not shown on a balance of probabilities that there are grounds for the Notice. Accordingly, I allow the tenant's application and dismiss the 10 Day Notice of January 29, 2018. This tenancy continues until ended in accordance with the *Act*.

I find that it is unnecessary to issue an order that the landlord comply with the terms of a previous monetary order as that order may be filed and enforced through the Provincial Court.

As the tenant was successful in their application I find they are entitled to recover the \$100.00 filing fee for this application.

Conclusion

I allow the tenant's application, and the 10 Day Notice is cancelled. The 10 Day Notice is of no force or effect. This tenancy continues until ended in accordance with the *Act*.

I allow the tenant to implement a monetary award of \$100.00, by reducing a future monthly rent payment by that amount.

I dismiss the portion of the application seeking an order that the landlord comply with the Act, regulations or tenancy agreement without leave to reapply.

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: March 29, 2018

Residential Tenancy Branch