



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNCL

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking an order cancelling a 12 Month Notice to End Tenancy for Conversion of Manufactured Home Park, pursuant to section 42 of the *Manufactured Home Park Tenancy Act*.

The landlord and the tenant attended the hearing and the tenant was accompanied by legal counsel. The parties each gave affirmed testimony and were given the opportunity to question each other and give submissions. No issues with respect to service or delivery of documents or evidence were raised, and all evidence provided has been reviewed and is considered in this Decision.

During the course of the hearing I questioned the tenant with respect to the date the Application for Dispute Resolution was filed. I have reviewed the case file and note that the tenant provided the application and filing fee on March 28, 2018 but it was not processed by the Residential Tenancy Branch until April 4, 2018. The Rules of Procedure specify that the date of the receipt is the date of filing, which is March 28, 2018 and I find that the tenant has filed the application within the 15 day requirement.

Issue(s) to be Decided

Has the landlord established that the 12 Month Notice to End Tenancy for Conversion of Manufactured Home Park was issued in accordance with the *Manufactured Home Park Tenancy Act*?

Background and Evidence

The landlord testified that the tenant currently resides in a manufactured home and has for many years. Rent in the amount of \$250.00 is payable on the 1st day of each month and there are no rental arrears; the tenant has not been paying rent since being served

with the 12 Month Notice to End Tenancy for Conversion of Manufactured Home Park (the Notice).

The landlord personally served the tenant with the Notice on March 15, 2018, and a copy has been provided as evidence for this hearing. It is dated March 15, 2018 and contains an effective date of vacancy of March 17, 2019.

The landlord further testified that he intends to convert the manufactured home park to a camping and RV park for short-term rentals, and no permits are required because it's rural property. The landlord has not checked to see if permits are required; it's common knowledge. The landlord has water permits for the park from the health department, and will need to extend the water lines and put in hookups for RVs. The manufactured home park is also currently listed for sale and the landlord wants to make the park more saleable. There have not been any offers but lookers.

Other tenants have also been served with a Notice, 2 others will also be served and one has already moved out of the park. The tenant told the landlord that he expected it and had no problem with it when he was served with the Notice.

The tenant testified that he owns a manufactured home and has lived in it within the manufactured home park for 12 to 14 years.

The tenant paid rent to March 15, 2018 and also paid April's rent, but the landlord gave the money back snorting mad on April 6 and wanted the receipt back.

The tenant has provided a copy of a sale advertisement for the manufactured home park and testified that there's a For Sale sign on the beach of the property. The tenant questions the good faith intent of the landlord, testifying that the landlord told the tenant he had a year to move out or if it sells, new owners might allow the tenant to stay. There was no conversation about camping and RVs.

The tenant also testified that permits are required for everything now; septic, electricity, water and telephone service. No evidence of any requirement has been provided by either party, but the tenant testified that he's learned that through other people in the building industry.

Analysis

The *Manufactured Home Park Tenancy Act* states, in part:

42 (1) Subject to section 44 [*tenant's compensation: section 42 notice*], a landlord may end a tenancy agreement by giving notice to end the tenancy agreement if the landlord has all the necessary permits

and approvals required by law, and intends in good faith, to convert all or a significant part of the manufactured home park to a non-residential use or a residential use other than a manufactured home park.

(2) A notice to end a tenancy under this section must end the tenancy effective on a date that

(a) is not earlier than 12 months after the date the notice is received and is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement, and

(b) if the tenancy agreement is a fixed term tenancy agreement, is not earlier than the date specified as the end of the tenancy.

(3) A notice under this section must comply with section 45 [*form and content of notice to end tenancy*].

(4) A tenant may dispute a notice under this section by making an application for dispute resolution within 15 days after the date the tenant receives the notice.

I have reviewed the Notice, and I find that it is in the approved form and contains information required by the *Act*. The reason for issuing it is in dispute.

Neither party has provided any evidence of permits that may or may not be required. Where a tenant disputes a notice to end a tenancy the onus is on the landlord to establish that it was given in accordance with the *Manufactured Home Park Tenancy Act*. The only evidence I have of a requirement for permits is the testimony of the parties, and neither has even checked by-laws or other requirements.

The manufactured home park is currently for sale, but the landlord does not know when it might sell. The parties have a contract, albeit not in writing, but by virtue of the landlord collecting rent for the manufactured home site.

The *Act* also states that if I dismiss the tenant's application to cancel the Notice, I must grant an Order of Possession in favour of the landlord. However, if in the meantime the landlord sells the manufactured home park and the purchaser does not convert the property to non-residential use or residential use other than a manufactured home park, the Order of Possession would go to the purchaser, who could legally take possession of the manufactured home site for no reason. I also find that converting the park is purely speculation considering that the park may sell.

In the circumstances, I find that the landlord has failed to establish that all permits are in place or good faith intent to convert the manufactured home park to non-residential use or residential use other than a manufactured home park, and I cancel the Notice.

Since the tenant has been successful with the application the tenant is entitled to recovery of the \$100.00 filing fee, and I grant a monetary order in favour of the tenant in that amount and I order that the tenant be permitted to reduce rent payable by that amount on a one time basis, or may otherwise recover it.

Conclusion

For the reasons set out above, the 12 Month Notice to End Tenancy for Conversion of Manufactured Home Park dated March 15, 2018 is hereby cancelled and the tenancy continues.

I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 60 of the *Manufactured Home Park Tenancy Act* in the amount of \$100.00 and I order that the tenant be permitted to reduce rent by that amount or may otherwise recover it. This order is final and binding and may be enforced.

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: May 03, 2018

Residential Tenancy Branch