



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL OLC MNDC

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on April 5, 2018 (the "Application"). The Tenant applied for the following relief, pursuant to the *Manufactured Home Park Tenancy Act* (the "Act"):

- an order cancelling a notice to end tenancy for landlord's use of property; and
- an order that the Landlord comply with the *Act*, regulation, and/or the tenancy agreement; and
- a monetary order for money owed or compensation for damage or loss.

The Tenant attended the hearing on his own behalf and was accompanied by L.L., his spouse. The Landlord attended the hearing on his own behalf and was accompanied by M.K., his spouse. All in attendance provided affirmed testimony.

The Tenant testified the Application package was served on the Landlord by registered mail. The Landlord acknowledged receipt. In addition, the Tenant testified that an Amendment to an Application for Dispute Resolution, dated May 25, 2018, was served on the Landlord by registered mail. The Landlord acknowledged receipt of the Amendment late, contrary to the Rules of Procedure. However, the Landlord advised he was prepared to proceed. Pursuant to section 71 of the *Act*, I find the Landlord was sufficiently served with the above documents for the purposes of the *Act*.

The parties were given a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Tenant entitled to an order cancelling the notice to end tenancy?
2. Is the Tenant entitled to an order that the Landlord comply with the *Act*, regulations, and/or the tenancy agreement?
3. Is the Tenant entitled to a monetary order for money owed or compensation for damage or loss?

Background and Evidence

The Tenant resides in a manufactured home park. The Tenant testified the tenancy began in October 1979, and that he currently pays pad rent in the amount of \$250.00 per month. The Landlord did not dispute the Tenant's evidence in this regard.

The Tenant's claim was set out in the Application and Amendment. First, the Tenant sought to cancel a hand-written notice to end tenancy, date March 31, 2018. A copy of the notice was submitted into evidence.

In reply, the Landlord acknowledged the notice was not issued on the correct form. However, he stated that a notice in the proper form has since been served on the Tenant and that it has not been disputed. Neither party submitted a copy of the second notice into evidence.

Second, the Tenant sought an order that the Landlord comply with the *Act*, regulations, and/or the tenancy agreement. On behalf of the Tenant, L.L. submitted that the hand-written notice was not issued in good faith because the Landlord previously advised that an increase to the pad rent was required. Neither the Tenant nor L.L. referred to a provision with which the Tenant wanted the Landlord to comply.

In reply, the Landlord again acknowledged that the notice in dispute was not served in the proper form and is not effective to end the tenancy.

Third, the Tenant claimed \$1,600.00 for work he says he completed at the manufactured home park in Spring 2017. Specifically, he testified that he brought in four dump truck loads of limestone to help keep dust down and because it looks good. The Tenant did not make a claim previously because he thought he would be able to remain at the manufactured home park indefinitely.

In reply, the Landlord acknowledged the Tenant did some work but testified he was told “not to worry about it”. M.K. noted that no invoices or other documents were submitted by the Tenant in support.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

With respect to the Tenant’s request for an order cancelling a hand-written notice to end tenancy, I find the notice does not comply with the form and content requirements of section 45 of the *Act*. The notice is a nullity. Accordingly, I find the tenancy will continue until otherwise ended in accordance with the *Act*.

With respect to the Tenant’s request for an order that the Landlord comply with the *Act*, regulations, and/or the tenancy agreement, the L.L. submitted that the notice was not issued in good faith. The Tenant did not refer to any provision with which the Landlord ought to comply, or submit a copy of the tenancy agreement. In any event, as I have determined that the hand-written notice was a nullity, I find that this aspect of the Application is dismissed.

Finally, with respect to the Tenant’s claim for compensation in the amount of \$1,600.00, section 67 of the *Act* empowers me to order one party to pay compensation to the other if damage or loss results from a party not complying with the *Act*, regulations or a tenancy agreement.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided for in sections 7 and 67 of the *Act*. An applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and
4. That the party making the application did what was reasonable to minimize the damage or loss.

In this case, the burden of proof is on the Tenant to prove the existence of the damage or loss, and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Landlord. Once that has been established, the Tenant must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Tenant did what was reasonable to minimize the damage or losses that were incurred.

I find there is insufficient evidence before me to conclude the Tenant is entitled to the monetary relief sought. As noted by M.K., the Tenant did not provide evidence confirming the value of the work completed, such as an invoice or other supporting documentation. I also note the Tenant did not make a claim for the work until the tenancy was in jeopardy. Accordingly, I find this aspect of the Application is dismissed.

Conclusion

The Tenant's Application is dismissed, 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: June 11, 2018

Residential Tenancy Branch