



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KAHANA HOLDINGS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FFL

Introduction

On August 17, 2018, the Landlord submitted an Application for Dispute Resolution under the *Manufactured Home Park Tenancy Act* ("the Act") seeking an order of possession for the rental site and to recover the filing fee for the Application.

The matter was set for a conference call hearing. The Landlord attended the hearing; however, the Tenants did not.

The Landlord provided affirmed testimony that the Tenants were served with the Notice of Dispute Resolution Proceeding documents using registered mail and by posting a copy of the hearing notice on the Tenants' door. The Landlord testified that the Notice of Dispute Resolution Proceeding document was sent using registered mail on August 23, 2018. The Landlord testified that the registered mail was returned to him as unclaimed. The Landlord provided the registered mail tracking information in support of his testimony.

The Landlord testified that he posted a copy of the Notice of Dispute Resolution Proceeding document on the Tenants' door on August 23, 2018. He testified that he stapled it to the Tenants' door frame to prevent it from blowing off. The Landlord testified that the Notice was removed by the Tenants shortly thereafter.

I find that the Tenants were duly served with notification of the hearing in accordance with sections 82 and 83 of the Act.

The Landlord provided affirmed testimony and was provided the opportunity to present evidence orally and in written and documentary form, and make submissions to me. In this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue to be Decided

- Is the Landlord entitled to an order of possession for the rental site?

Background and Evidence

The Landlord testified that the owner purchased the manufactured home park on October 15, 2017. The Landlord inherited the manufactured home site tenancy. The Landlord did not know when the Tenants first moved into the park. Pad rent in the amount of \$294.00 is due by the first day of each month.

1 Month Notice to End Tenancy for Cause

The Landlord testified that on August 1, 2018, he served a 1 Month Notice to End Tenancy for Cause to the Tenants by registered mail and by posting a copy of the Notice to the door of the unit on August 1, 2018. The Landlord provided the following reason for ending the tenancy on the Notice:

- *Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.*

The 1 Month Notice provides information for Tenants who receive the Notice. The Notice states that a Tenant has the right to dispute the Notice within 10 days after receiving it by filing an Application for Dispute Resolution at the Residential Tenancy Branch. If a Tenant does not file an Application within 10 days, the Tenant is presumed to accept the Notice and must move out of the rental unit or vacate the site by the date set out on page 1 of the Notice. If the Tenant does not file an Application, move or vacate, the Landlord can apply for an Order of Possession that is enforceable through the court.

There is no evidence before me that the Tenants filed an application to dispute the 1 Month Notice To End Tenancy For Cause dated August 1, 2018.

The Landlord is seeking an order of possession for the rental site. The Landlord testified that the pad rent was paid for the month of October 2018.

Analysis

Under section 48 (2) of the Act, a Landlord may request an order of possession of a manufactured home site by making an application for dispute resolution when a notice to end the tenancy has been given by the Landlord, the Tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired. In these circumstances the director may, without any further dispute resolution process; grant an order of possession to the Landlord.

Based on the Landlord's testimony and evidence and on a balance of probabilities, I make the following findings:

The Tenants are deemed under the Act, to have received the 1 Month Notice To End Tenancy for Cause dated August 1, 2018, on the third day after it was attached to their door. I find that the 1 Month Notice was received by the Tenants on August 4, 2018.

I find that the Tenants failed to dispute the 1 Month Notice within 10 days of receiving the Notice.

I find that the Tenants received the Notice of Dispute Resolution Proceeding on August 26, 2018, the third day after it was posted and failed to attend the hearing.

I find that the time limit for making an application to dispute the 1 Month Notice has expired and Landlord is entitled to an order of possession for the rental site.

Since the pad rent for October 2018, is paid, I grant the Landlord an order of possession of the rental site effective no later than 1:00 pm on October 31, 2018, after service on the Tenants.

Section 65(1) of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. As the Landlord was successful with his application, I order the Tenants to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution. I grant the Landlord a monetary order in the amount of \$100.00.

Conclusion

The Tenants failed to dispute a 1 Month Notice To End Tenancy For Cause dated August 1, 2018, and did not attend a hearing for the Landlord's request for an order of possession.

I grant the Landlord an order of possession effective at 1:00 pm on October 31, 2018. The Tenants must be served with the order of possession.

I grant the Landlord a monetary order in the amount of \$100.00 for the cost of the filing fee.

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: October 09, 2018

Residential Tenancy Branch