



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CRYSTAL RIVER COURT LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FFL

Introduction

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

- 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 landlord's agent ("landlord") and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that he was the president and of the landlord company named in this application and that he had permission to speak on its behalf as an agent at this hearing.

The tenant confirmed receipt of the landlord's application for dispute resolution and notice of hearing. In accordance with sections 82 and 83 of the *Act*, I find that the tenant was duly served with the landlord's application and notice of hearing.

The tenant testified that he did not receive the landlord's written evidence package. The landlord confirmed that he mailed it to the tenant on September 15, 2018 by way of registered mail. The landlord provided a Canada Post receipt with this application. The tenant confirmed that he already had all of the landlord's evidence, including the tenancy agreement, addendum to the tenancy agreement, park rules and 1 Month Notice, prior to the hearing. The tenant said that he did not receive the landlord's three coloured photographs of his manufactured home and I find that it is not a material piece of evidence that I need to consider for this application.

The tenant confirmed receipt of the landlord's 1 Month Notice to End Tenancy for Cause, dated June 24, 2018 ("1 Month Notice"). He could not recall the date of receipt.

The landlord provided a Canada Post receipt indicating he sent it by registered mail to the tenant on June 25, 2018. In accordance with sections 81 and 83 of the *Act*, I find that the tenant was deemed served with the landlord's 1 Month Notice on June 30, 2018, five days after its registered mailing.

Issues to be Decided

Is the landlord entitled to an Order of Possession for cause?

Is the landlord entitled to recover the filing fee for this application?

Background and Evidence

Both parties agreed to the following facts. This tenancy began on May 25, 2017 for a one year fixed term after which it became a month-to-month tenancy. Monthly rent in the amount of \$535.00 is payable on the first day of each month. A security deposit was not required by the landlord or paid by the tenant. Both parties signed a written tenancy agreement and addendum. The tenant owns the manufactured home ("trailer") and rents the manufactured home site ("pad site") from the landlord. The tenant does not reside in the trailer; he is only completing repairs to it.

The landlord's 1 Month Notice indicates an effective move-out date of July 25, 2018.

The landlord issued the notice for the following reasons:

- *Tenant has not done required repairs to the unit/site;*
- *Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.*

The landlord seeks an order of possession based on the 1 Month Notice. The landlord testified that the 1 Month Notice was issued because the tenant failed to do required repairs to the trailer and pad site by the deadlines noted in the addendum to the tenancy agreement. He said that it has been over twelve months since the tenancy began, the tenant's lack of repairs has made the trailer and pad site unsightly and a safety hazard, and he has received complaints from other occupants in the park. He said that it violates article 10 of the tenancy agreement and section 22 of the *Act* because it disturbs the quiet enjoyment of other occupants, paragraph 10(j) of the tenancy agreement for violating health and cleanliness standards, as well as paragraphs 10(a) and 10(g) of the tenancy agreement for failing to abide by park rules. He claimed that the tenant is not well enough to complete the repairs and by the tenant's own admission, he does not have the money to complete the repairs.

The tenant agreed that he signed the tenancy agreement addendum with the landlord that required him to complete repairs to the trailer and pad site by different deadlines, the ultimate deadline by October 2017. He agreed that he did not complete these required repairs but said it was because of his own health and money issues. He stated that he should be able to start repairs again in one to two weeks once he has healed from current medical issues, and that he has money coming soon to assist him with the repairs. He said that the landlord takes advantage of occupants in the park and waits until they are sick before applying for an order of possession to evict them. He stated that he did not dispute the 1 Month Notice because he was told by the park managers that it was just a warning, not that his tenancy was in jeopardy.

Analysis

I am satisfied that the landlord issued the 1 Month Notice for a valid reason. I find that the tenant failed to do required repairs to the trailer and pad site, as required by his signed tenancy agreement addendum.

I accept the undisputed evidence of both parties that the tenancy agreement addendum was signed by both parties, it required the tenant to complete repairs to the trailer and pad site, and the tenant failed to complete these repairs by the deadlines and even to the date of this hearing. As I have found one of the reasons on the 1 Month Notice to be valid, I do not need to examine the other reason.

After the tenant received the 1 Month Notice, the landlord filed this application on August 18, 2018. This hearing took place on October 9, 2018, almost two months later. Even if the tenant believed that the 1 Month Notice was just a warning from the landlord, the landlord continued to pursue this application to this hearing, which the tenant attended knowing that the landlord had applied for an order of possession against him.

The tenant has not made an application pursuant to section 40(4) of the *Act* within ten days of receiving the 1 Month Notice. In accordance with section 40(5) of the *Act*, the failure of the tenant to take this action within ten days led to the end of this tenancy on July 31, 2018, the effective date on the 1 Month Notice. In this case, this required the tenant and anyone on the premises to vacate the premises by July 31, 2018.

As this has not occurred, I find that the landlord is entitled to an **order of possession effective at 1:00 p.m. on October 31, 2018**, pursuant to section 48 of the *Act*. The landlord confirmed that the tenant has paid rent for October 2018 so I find that the

tenant is entitled to possession until the end of the month. I find that the landlord's 1 Month Notice complies with section 45 of the *Act*.

As the landlord was successful in this application, I find that it is entitled to recover the \$100.00 application filing fee from the tenant and I issue a monetary order in this regard.

Conclusion

I grant an Order of Possession to the landlord **effective at 1:00 p.m. on October 31, 2018**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary order in the landlord's favour in the amount of \$100.00 against the tenant. The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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