



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR

Introduction

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

- an Order of Possession pursuant to section 48.

The landlord filed an application through the Direct Request Process and an adjudicator deemed it appropriate that the matter be held by way of participatory hearing.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The tenant acknowledged receipt of the landlords Notice of Hearing package, application and evidence. The tenant did not submit any documentation for this hearing.

Issues to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The landlord gave the following testimony. The landlord testified that the tenancy began in June 2005. The monthly rent is \$300.00 due on the first of each month. The landlord testified that the tenant has been late in paying the rent for the months of January, March and July 2018. The landlord testified that the tenant did not pay the rent for October 2018 and on October 9, 2018 he and his park manager posted a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities on the tenants' door. The landlord testified that the tenant did not pay the rent for November 2018 either and that as of

today's date the amount of unpaid rent is \$600.00. The landlord requests an order of possession and that the tenancy ends.

The tenant gave the following testimony. The tenant testified that she paid Octobers rent on October 15, 2018 and Novembers rent on November 3, 2018. The tenant testified that she has receipts for those payments. The tenant testified that she did not dispute the notice because she thought she could deal with it on the phone. The tenant testified that she has had significant personal and family challenges including her own poor health. The tenant testified that she has made attempts to work with the landlord but to no avail.

Analysis

39 Landlord's notice: non-payment of rent

- (a) (1) A landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.
- (b)(2) A notice under this section must comply with section 45 *[form and content of notice to end tenancy]*.
- (c)(3) A notice under this section has no effect if the amount of rent that is unpaid is an amount the tenant is permitted under this Act to deduct from rent.
- (d)(4) Within 5 days after receiving a notice under this section, the tenant may
 - (e)(a) pay the overdue rent, in which case the notice has no effect, or
 - (f) (b) dispute the notice by making an application for dispute resolution.
- (g) (5) **If a tenant who has received a notice under this section does not pay the rent or make an application for dispute resolution in accordance with subsection (4), the tenant**

- (h)(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and
- (i) (b) must vacate the manufactured home site to which the notice relates by that date.

The tenant testified that she has paid the rent and has proof of it; however, the tenant chose not to submit that documentation for this hearing. The landlord provided sufficient documentation to show that the tenant has not paid rent for the past two months. I find that the notice complies with section 45 of the MHPTA and is in full effect and force.

Not only has the tenant not filed to dispute the notice to end tenancy or provide sufficient evidence of payment, the landlord has provided sufficient evidence to support his claim and therefore is entitled to an order of possession pursuant to section 48 of the MHPTA.

The landlord made reference that he was seeking a monetary order for the unpaid rent however his application was filed for an order of possession only. The landlord can pursue a monetary claim in a separate application if he so chooses.

Conclusion

The landlord is granted an order of possession. The tenancy is terminated.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: November 30, 2018

Residential Tenancy Branch