



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TWIN FIRS PROPERTIES (1997 LTD)
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MT, CNR, FFT

Introduction

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

- more time to cancel a Notice to End Tenancy, pursuant to section 59;
- cancellation of the 10 Day Notice to End Tenancy for Unpaid Rent, pursuant to section 39; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 65.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

Both parties agreed that the tenant personally served the landlord with the notice of dispute resolution application; however, neither party knew the date that service occurred. I find that the landlord was served with the notice of dispute resolution package in accordance with section 82 of the *Act*.

Preliminary Issue- Status of Tenancy

The landlord entered into evidence a Decision dated October 2, 2018 from the Residential Tenancy Branch between the same parties as this dispute and at the same residential address (the "Decision"), which stated:

A One Month Notice to End Tenancy for Cause (the Notice) must be given the day before rent is payable under the tenancy agreement. In this case, the landlord gave the Notice after rent is payable, and therefore, the effective date of vacancy is changed to the nearest date that complies with the law, which in this case is September 30, 2018.

The tenant did not serve the landlord with an Application for Dispute Resolution disputing the Notice, and I have no such application before me. Therefore, I find that the tenant is conclusively presumed to have accepted the end of the tenancy and the landlord is entitled to an Order of Possession. Since the effective date of vacancy, changed to September 30, 2018, has passed, I grant the Order of Possession on 2 days notice to the tenant.

The landlord testified that he has not yet acted on the Order of Possession as he is currently working with the tenant in the hope of conveying the tenant's equity to the her; however, the tenancy has not been reinstated.

The Decision found that the tenancy in question ended on the corrected effective date of the One Month Notice, that being September 30, 2018. Since an Arbitrator has already concluded that the tenancy in question has ended, I dismiss the tenant's application without leave to reapply.

In any event, the tenant did not enter into evidence the 10 Day Notice to End Tenancy which she is seeking to have cancelled. Therefore, I also dismiss the tenant's application for lack of evidentiary foundation.

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: December 11, 2018

Residential Tenancy Branch