



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes MT, CNR, ERP, RP, RR, MNDCT, FFT

### Introduction

This hearing was scheduled in response to the tenant's application pursuant to the *Manufactured Home Park Tenancy Act* (the "Act") for:

- more time to make an application to cancel the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice") pursuant to section 59;
- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice") pursuant to section 39;
- an order for the landlord to make emergency repairs pursuant to section 55;
- an order for the landlord to make repairs pursuant to section 26;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 58;
- a monetary order for damage or compensation under the *Act*, *Manufactured Home Park Tenancy Regulation* ("Regulation") or tenancy agreement pursuant to section 60; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 65.

The tenant and his legal advocate (collectively "the tenant") attended the hearing. The landlord was represented by an agent and the owner (collectively "the landlord"). Each party was each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

At the outset of the hearing, the landlord confirmed receipt of the tenant's application. The landlord testified that she did not provide any documentary evidence for this hearing. The tenant stated that evidence was sent to the landlord by way of regular mail on January 18, 2019; the landlord denied receipt of this evidence. In any event, the tenant's evidence was late and not relevant to my findings. This evidence was not considered.

### Preliminary Issue – Sever

Rule 2.3 states that claims made in an application must be related to each other and that an Arbitrator has discretion to dismiss unrelated claims with or without leave to reapply. I advised both parties at the outset of the hearing that the central and most important issue for this hearing was whether this tenancy would end pursuant to the notices and whether emergency repairs were needed. Accordingly I find the remaining portion of the tenant's application must be severed.

#### Preliminary Issue – More Time

The tenant testified that he received the landlord's 10 Day Notice, dated November 8, 2018 by way of posting to the manufactured home door, on December 6, 2018. Section 39(4) of the *Act* provides that upon receipt of a notice to end tenancy the tenant may, within 5 days after receiving the notice, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch ("RTB").

Because the 10 Day Notice was received on December 6, 2018 the tenant was required to file his application to dispute the 10 Day Notice no later than December 11, 2018. The tenant filed his application on December 14, 2018, past the allotted time.

Under section 66 of the *Act*, the director may extend a time limit established by the *Act*, in exceptional circumstances. Initially, the tenant testified that he was "not sure" why he was unable to file in time. The tenant then testified that he was in and out of the hospital, but could not recall the dates. In the absence of dates or medical records to corroborate the tenant's claim, I find the tenant has failed to establish exceptional circumstances existed which prevented him from filing an application in time. For the above reasons, I dismiss the tenant's application for more time to make an application to cancel the landlord's 10 Day Notice.

#### Analysis

Section 48 of the *Act* establishes that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end tenancy, an order of possession must be granted to the landlord if, the notice to end tenancy complies in form and content and the tenant's application is dismissed or the landlord's notice is upheld. Section 45 of the *Act* provides that a notice to end tenancy from a landlord must be in writing and must be signed and dated by the landlord, give the address of the manufactured home site, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

Based on the landlord's testimony and the 10 Day Notice before me, I find the 10 Day Notice complies in form and content. As the 10 Day Notice complies in form and content and as the tenant's application has been dismissed I find that the landlord is entitled to a two (2) day order of possession.

Because a finding has been made in relation to the 10 Day Notice and the tenancy is set to end, a finding on the emergency repair is not required. This portion of the tenant's claim is dismissed without leave to reapply. As the tenant was not successful in this application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for the application.

### Conclusion

The tenant's application is dismissed.

I grant an order of possession to the landlord effective **two (2) days after service on the tenant.**

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: January 24, 2019

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Residential Tenancy Branch