



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes CNR

Introduction

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

- cancellation of a 10 Day Notice to End Tenancy for unpaid rent (the 10 Day Notice), pursuant to section 39.

The hearing was conducted by conference call. The landlord did not attend this hearing, although I waited until 11:12 a.m. in order to enable the landlord to connect with this teleconference hearing scheduled for 11:00 a.m. The tenant attended the hearing and was given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

The tenants testified that on February 9, 2019, they personally served the landlord with a copy of the Application for Dispute Resolution and Notice of Hearing.

Based on the above evidence, I am satisfied that the landlord was served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to section 82 of the Act. The hearing proceeded in the absence of the landlord.

Issues

Should the landlord's 10 Day Notice be cancelled? If not, is the landlord entitled to an order of possession?

Background and Evidence

The 10 Day Notice subject to this dispute in dated January 31, 2019 and was served to the tenants on February 1, 2019. The tenants' application to cancel the 10 Day Notice was filed on February 5, 2019 within the time period permitted under the Act.

Analysis

Section 39 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the Notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant makes such an application, the onus shifts to the landlord to justify, on a balance of probabilities, the reasons set out in the 10 Day Notice.

The landlord did not participate in the hearing and as such has failed to provide sufficient evidence to justify grounds to issue the 10 Day Notice. Accordingly, the 10 Day Notice dated January 31, 2019, is hereby cancelled and of no force or effect.

Conclusion

I allow the tenant's application to cancel the landlord's 10 Day Notice dated January 31, 2019, which is hereby cancelled and of no force or effect. This tenancy continues until it is ended in accordance with the *Act*.

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: March 18, 2019

Residential Tenancy Branch