



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC, FFT

Introduction:

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. An order to cancel the one month Notice to End Tenancy dated July 10, 2019
- b. An order that the landlord comply with the Manufactured Home Park Tenancy Act, Regulations and/or tenancy agreement.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the one month Notice to End Tenancy was personally served on the Tenant on July 10, 2019. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on landlord on July 16, 2019. With respect to each of the applicant's claims I find as follows:

Issues to be Decided:

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the one month Notice to End Tenancy dated July 10, 2019?
- b. Whether the tenant is entitled to an order that the landlord comply with the Act, Regulations and/or tenancy agreement?

Background and Evidence:

The tenancy began in 2014. The tenancy agreement provided that the tenant(s) would pay rent of \$500 per month payable in advance on the first day of each month.

Grounds for Termination:

The Notice to End Tenancy identifies the following grounds:

“Rental unit/site must be vacated to comply with a government order.”

The landlord gave the following evidence.

- The tenant previously occupied another pad.
- In June 2019 the District became aware that many trailers in the landlord's facility including the previous pad occupied by the tenant were not approved for RV use and issued an order to remove all trailers in these areas.
- The landlord attempted to work with the tenants and gave them written notice requiring them to vacate.
- In late June 2019 the tenant moved his trailer to a pad which became vacant (and was not subject to the order of the District).
- The tenant moved his trailer onto the new pad without the consent or approval of the landlord. The landlord did not enter into a tenancy agreement with the tenant for this site. This site had been scheduled to be rented to another tenant.
- The order of the District required for the closure of 4 pads. There are 7 pads remaining.

The tenant gave the following evidence:

- He has lived in the rental unit for over 5 years. He is on disability.
- The previous site he occupied had a septic problem which flooded on many occasions.
- He acknowledged that he moved his trailer secretly to the new site without the consent or approval of the landlord.
- He submits the Notice to End Tenancy is not valid because the site identified in that Notice was not subject to the order from the District.
- The landlord had previously promised him on many occasions that they would allow him to move to another site but they failed to do so.

Analysis:

After carefully considering all of the evidence and submission of the parties I determined the landlord has established sufficient cause to end the tenancy for the following reasons:

- The tenant did not dispute the evidence that the landlord was required by the District to remove trailers from a part of the property including the site that he previously occupied. Thus I determined the landlord has sufficient grounds to end the tenancy with respect to the previous site.
- The tenant did not have a legal right to move his trailer to the new site. He did this secretly and with the consent and approval of the landlord. This is akin to a tenant deciding to move from one apartment to another without the consent of the landlord and without entering into a new tenancy agreement. The tenant has become a squatter as he has no legal right to the pad which he now occupies.
- The tenant failed to prove that the landlord made a promise which created a legal obligation on the landlord to provide him with a new site.
- Section 55(1) of the Manufactured Home Park Tenancy Act provides as follows:

“Director's authority respecting dispute resolution proceedings

55(1) The director has authority to determine

(a) disputes in relation to which the director has accepted an application for dispute resolution, and

(b) any matters related to that dispute that arise under this Act or a tenancy agreement.

(2) The director may make any finding of fact or law that is necessary or incidental to making a decision or an order under this Act.

(3) The director may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement.”

- I do not accept the submission of the Tenant that he can improve his possession by wrongfully taking possession of new. I determined the dispute in relation to the new site is related to the previous site. I determined the landlord has grounds to end the tenancy with respect to the pad which the tenant presently occupies.

Determination and Orders:

After carefully considering all of the evidence I determined that the landlord has established sufficient cause to end the tenancy. As a result I dismissed the tenant's application to cancel the one month Notice to End Tenancy to End Tenancy. Further, I determined the tenant has no legal right to occupy the site the tenant is presently occupying. I determined that the tenant is over-holding and that the over-holding tenancy will come to an end on September 30, 2019.

Order for Possession:

The Residential Tenancy Act provides that where an arbitrator has dismissed a tenant's application to cancel a Notice to End Tenancy, the arbitrator must grant an Order for Possession. As a result I granted the landlord an Order for Possession effective September 30, 2019.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

This decision is final and binding on the parties.

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: September 10, 2019

Residential Tenancy Branch