



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT, OLC

Introduction

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

- cancellation of the landlord's One Month Notice to End Tenancy for Cause (the "One Month Notice") pursuant to section 40;
- an order for the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 55; and
- authorization to recover the filing fee for this application 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 and cross-examine witnesses.

The tenant testified the tenant served the landlord with the Notice of Hearing and Application for Dispute Resolution and the tenant's evidence by registered mail sent on the day that she received the notice of hearing package from the Residential Tenancy Branch. The tenant testified that she served the landlord with an amendment and additional evidence by sending the landlord the documents by registered mail on August 13, 2019. The tenant provided the Canada Post tracking number in support of the second mailing which is referenced on the first page of the decision.

The landlord testified that he did not receive any documents from the tenant. However, the landlord did confirm that the mailing address which the tenant claimed to have used was correct. The landlord testified that he did not object to the service of the Notice of Hearing or the tenant's evidence. Based on the tenant's testimony and the non-opposition by the landlord, I find that the tenant has properly served the Notice of hearing and her evidence pursuant to sections 88 and 89 of the *Act*.

Preliminary Matter: Name Correction

The landlord testified that the tenant's application stated the wrong name for the landlord. The tenant did not object to the correction of the landlord's name. I herein amend the tenant's application to state to the correct name of the landlord, which is stated on first page of this decision, pursuant to section 64(3)(c) of the *Act*.

Preliminary Issue: Severance of Portion of Tenant's Application

Residential Tenancy Branch Rules of Procedure, number 2.3 states that:

2.3 Related issues

Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

It is my determination that the priority claim regarding the One Month Notice and the continuation of this tenancy is not sufficiently related to any of the tenant's other claims to warrant that they be heard together. The parties were given a priority hearing in order to address the question of the validity of the One Month Notice.

The tenant's other claims are unrelated in that they do not pertain to facts relevant to the grounds for ending this tenancy as set out in the One Month Notice. I exercise my discretion to dismiss all the tenant's claims with leave to reapply except for the cancellation of the One Month Notice and recovery of the filing fee for this application.

Settlement

Before the conclusion of this hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise, and achieved a resolution of their dispute.

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties do so during the dispute resolution proceedings, the settlement may be recorded in the form of a Decision or an Order. Given the agreement reached between the parties during the proceedings, I find that the parties have settled their dispute and the following records this settlement as a Decision:

The Parties mutually agreed as follows:

- The landlord shall allow the Tenant to stay until 1:00 pm on September 30, 2020 and the landlord is granted an Order of Possession in accordance with that date;

These terms comprise the full and final settlement of the tenant's application for cancellation of the landlord's One Month Notice and the tenant's application for reimbursement of the filing fee.

Both parties testified that they understood and agreed that the above terms are final, binding, and enforceable, and settle the tenant's application for cancellation of the landlord's One Month Notice and the tenant's application for reimbursement of the filing.

Based on the above, I find that the tenant's application for cancellation of the landlord's One Month Notice and the tenant's application for reimbursement of the filing are resolved pursuant to the above agreed terms.

Conclusion

To give effect to the settlement reached between the parties and as discussed with them during the hearing, I issue an Order of Possession to the landlord, which is to take effect by 1:00 p.m. on September 30, 2020. The landlord must be serve the tenants with this Order. If the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Further to the settlement reached by the parties, I dismiss the tenant's application for cancellation of the landlord's One Month Notice and the tenant's application for reimbursement of the filing fee.

I dismiss the tenants' application for an order that the landlord comply with the *Act* with 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: September 03, 2019

Residential Tenancy Branch