



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC

Introduction

On June 29, 2020, the Tenants applied for a Dispute Resolution proceeding seeking to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 40 of the *Manufactured Home Park Tenancy Act* (the “Act”) and seeking an Order to comply pursuant to Section 55 of the Act.

The Tenants attended the hearing; however, there was no appearance by the Landlord during the 15-minute hearing. All parties provided a solemn affirmation.

Tenant A.B. advised that he served a Notice of Hearing package by hand to Landlord P.P. on July 2, 2020 and Tenant S.G. confirmed that she witnessed this service. A.B. stated that P.P. told him they needed to schedule an appointment to serve Landlord S.P. the Notice of Hearing package to her. S.G. stated that they did not serve S.P. this package and are still holding onto it.

Based on this undisputed testimony, and in accordance with Sections 89 and 90 of the Act, I am satisfied that P.P. was served with the Notice of Hearing package. However, as S.P. was not served the Notice of Hearing package in accordance with Rule 3.1 of the Rules of Procedure, Landlord S.P. has been removed from the style of cause on the first page of the Decision.

The Tenants advised that they did not submit any evidence for consideration on this file.

During the hearing, I advised the Tenants that as per Rule 2.3 of the Rules of Procedure, claims made in an Application must be related to each other and that I have the discretion to sever and dismiss unrelated claims. As such, I advised the Tenants that this hearing would primarily address the Landlord’s One Month Notice to End

Tenancy for Cause, that their other claims would be dismissed, and that they are at liberty to apply for these claims under a new and separate Application.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note that Section 48 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord, I must consider if the Landlord is entitled to an order of possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that complies with the *Act*.

Issue(s) to be Decided

- Are the Tenants entitled to have the Notice cancelled?
- If the Tenant are unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Tenants advised that the tenancy started on November 15, 2018, that rent was currently \$500.00 per month, and that it was due on the first day of each month. There was no signed tenancy agreement ever created by the Landlord.

A.B. stated that the Notice was served to him in person on June 25, 2020 but a copy of this Notice was not submitted for consideration as he advised that he “lost it.” They believed that this Notice was on the approved form, that it was filled out correctly and signed by the Landlord, and that the effective end date of the tenancy was July 25, 2020. They could not remember the specific reasons for why the Landlord chose to serve the Notice.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

With respect to the Notice served to the Tenant on June 25, 2020, I was unable to review this Notice to ensure that the Landlord has complied with the requirements as to the form and content of Section 45 of the *Act* as it has not been submitted for consideration. Furthermore, regarding the validity of the reason(s) indicated on the Notice, the onus is on the party issuing the Notice to substantiate the reason(s) for service of the Notice.

When reviewing the evidence before me, I have found that the Landlord has been sufficiently served the Notice of Hearing package. As the Landlord has not attended the hearing and as the Landlord has not submitted a copy of the Notice, or any evidence to substantiate why the Notice was served, I am not satisfied of the validity of the Notice. Ultimately, I find that the Notice is of no force and effect.

Conclusion

Based on the above, if a One Month Notice to End Tenancy for Cause was even served to the Tenants on June 25, 2020, this Notice is cancelled and of no force or effect.

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: July 23, 2020

Residential Tenancy Branch