



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT

Introduction

The tenant filed an Application for Dispute Resolution on November 10, 2020 seeking an order to cancel the One-Month Notice to End Tenancy for Cause (the “One-Month Notice”) issued by the landlord on October 25, 2020. The tenant also applied for reimbursement of the Application filing fee. The matter proceeded by way of a hearing pursuant to section 67(2) of the *Manufactured Home Park Tenancy Act* (the “Act”) on February 2, 2021.

The landlord attended the hearing; the tenant did not. In the conference call hearing I explained the process and offered the landlord the opportunity to ask questions. I provided them the opportunity to present oral testimony and make oral submissions during the hearing.

Issue(s) to be Decided

Is the tenant entitled to a cancellation of the One-Month Notice pursuant to section 40 of the *Act*?

If the tenant is unsuccessful in seeking to cancel, is the landlord entitled to an order of possession pursuant to section 48 of the *Act*?

Is the tenant entitled to reimbursement of the Application filing fee pursuant to section 65 of the *Act*?

Background and Evidence

I have reviewed all evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this section.

The landlord presented the basic terms of the agreement between the parties. This is a month-to-month agreement. The tenant pays \$800 per month plus the hydro utility. As of the time of the hearing, the tenant had paid each of the months of December and January since the landlord issued the One-Month Notice.

The landlord issued the One-Month Notice for issues involving a relation of the tenant. The landlord presented that a term of a prior arbitration in this branch was that this relation not visit the park or the tenant. A violation of that agreement would allow the landlord to issue a notice to end tenancy, without a written notice requirement. This is described in a written submission prepared by the landlord for this hearing.

Both the tenant and the landlord provided a copy of the One-Month Notice in the evidence. The document bears the signature of the landlord; however, the date signed is omitted. In the hearing, the landlord placed its issuance on October 20, 2020.

On page 2 of the One-Month Notice, the landlord indicated the following

- ☐ tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord
- ☐ tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security or safety or physical well-being of another occupant or the landlord.

A breach of the agreement between the parties regarding the third party's attendance occurred on October 20, 2020. This resulting in the police authority addressing the matter on October 25, 2020. The third page of the One-Month Notice describes these events in detail.

The tenant did not attend the hearing and provided no evidence to show information that contradicts or otherwise disputes the information presented by the landlord here.

Analysis

The Act s. 40(1) states that a landlord may end a tenancy if one or more of the following applies. The subsection (c) describes a tenant or a person allowed by the tenant causing disturbance or jeopardizing the health of others. The subsection (d) provides that illegal activity causing damage or adversely affecting others is reason for a landlord ending a tenancy.

The Act s. 40(4) states that within 10 days of receiving a notice a tenant may dispute it by filing an Application for Dispute Resolution.

The Act s. 45 states:

In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the manufactured home site,
- (c) state the effective date of the notice,
- (d) except for a notice under section 38 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

In this hearing, both the landlord and the tenant provided a copy of the One-Month Notice. The document is not valid because it is not compliant with the provisions of s. 45(a). The tenant's submitted copy was also missing a signed date; based on this, I find it more likely than not that the document was not dated when signed and/or issued by the landlord.

After the hearing, I reviewed the document as submitted by both parties, against the necessary provisions of s. 45. Without a date, I find the document does not comply with s. 45, and thus the core of s. 40 is not established.

For these reasons, I order the One-Month Notice to be cancelled. I find the One-Month Notice issued by the landlord does not comply with the requirements set out in s. 45.

As the tenant was successful in this application, I find the tenant is entitled to recover the \$100.00 filing fee paid for this application. I authorize the tenant to withhold the amount of \$100.00 from one future rent payment.

Conclusion

For the reasons above, I order the One-Month Notice issued by the landlord is cancelled and the tenancy remains in full force and 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: February 2, 2021

Residential Tenancy Branch