



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

The landlords (hereinafter the “landlord”) filed their Application for Dispute Resolution (the “Application”) on December 17, 2020 seeking an order of possession for the manufactured home site. The matter proceeded by way of a hearing pursuant to s. 67(2) of the *Manufactured Home Park Tenancy Act* (the “Act”) on March 15, 2021. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The landlord attended the telephone conference call hearing; the tenants (hereinafter the “tenant”) did not attend.

To proceed with this hearing, I must be satisfied that the landlord made reasonable attempts to serve the tenant with the Notice of Dispute Resolution Proceeding. This means the landlord must provide proof that the document was served at a verified address allowed under s. 82 of the *Act*, and I must accept that service.

The landlord stated in the hearing that they provided the notice to the tenant in person. This was upon applying in December for their claim for the order of possession. The landlord had an address from the tenant via a mutual contact. I accept this evidence from the landlord, based on their description of the tenant’s reaction when receiving this notice from the landlord. On this basis, I proceed with the hearing and a consideration of the evidence presented by the landlord.

Preliminary Matter

In the hearing, the landlord stated they wished to amend their Application to include a consideration of the rent amounts owing from the tenant, as well as a monetary amount for the cost of final removal of a vacant manufactured home from the manufactured home site. They stated they were advised to bring forward this amendment in the hearing.

In their submitted evidence, the landlord provided a monetary claim worksheet that outlines the substance of their monetary claim. The landlord submitted this to the Residential Tenancy Branch and provided a copy of this information to the tenant via registered mail on March 1, 2021.

The *Residential Tenancy Branch Rules of Procedure* (the “Rules”) govern all aspects of a dispute resolution proceeding. These are in place to ensure a fair, efficient, and consistent process for resolving dispute for landlords and tenants. Rule 4 governs an amendment to an application:

- 4.1: An applicant may amend a claim by: completing an Amendment . . . form; and filing the completed Amendment to an Application for Dispute Resolution form and supporting evidence. . . .
- 4.2: In circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended in the hearing.
- 4.7: A respondent may raise an objection at the hearing to an Amendment . . . on the ground that the respondent has not had sufficient time to respond to the amended application or to submit evidence in reply.

The arbitrator will consider such objections and determine if the amendment would prejudice the other party or result in a breach of the principles of natural justice. The arbitrator may hear the application as amended, dismiss the application with or without leave to reapply, or adjourn the hearing to allow the respondent an opportunity to respond.

In the hearing the landlord presented that their claim for compensation totals \$9,100. I heard certain pieces of the landlord’s evidence on this point; however, I find it is in line with the principles of natural justice that the tenant has the opportunity to respond. Had the tenant been at the hearing, they would have a chance to object, and I would consider those objections; however, because they were not present, I find they must have the full opportunity to respond.

Further on this point, I am not satisfied that these are circumstances that could reasonably be anticipated in line with the original Application that concerns an order of possession.

Finally, the landlord did not complete an Amendment to their Application for Dispute resolution in the manner specified in the Rules. I find adding a significant monetary component to their claim necessitates a fulsome amended Application; again, these are not circumstances that could reasonably be anticipated, and not in line with their original Application.

For these reasons, I have not considered the landlord's evidence on compensation herein. They have leave to reapply on their monetary claim in another, separate Application for Dispute Resolution.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession pursuant to s. 48 of the *Act*?

Background and Evidence

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

The landlord applied for an order of possession pursuant to the One Month Notice for Cause (the "One-Month Notice") they issued to the tenant on October 22, 2020.

The landlord submitted that the tenancy agreement, as it stands, is not set out in a single document. This is due to the landlord taking over the manufactured home park in December 2019. This is long after the tenant initially occupied the manufactured home site. The current amount of rent in place with the tenant here is \$400 per month.

The landlord served the One-Month Notice in this dispute for the tenant subletting the manufactured home site. The provided that the tenant entered into a rent-to-own contract with another person, who in turn then rented to a third party. They state in their Application: "There are no written records on file that would give [the tenant] permission to enter into a sublet situation."

The landlord provided a written description of the issue in their evidence. This document sets out how they issued and served the One-Month Notice to the tenant. They set out that the tenant “did not have any evidence or paperwork for grounds for an appeal. . . and did not dispute the notice to end tenancy.” As of December 17, 2020 (the date of this document) the tenant sold the manufactured home to another person. The tenant has not paid the pad rent since October 1, 2020. The manufactured home on the manufactured home site remains vacant, and this restricts the landlord’s ability to rent the home site to a new tenant.

In this document, the landlord confirms that after service of the One-Month Notice, the tenant did not communicate and “made no contact or effort to alter the course of ending the tenancy”.

Analysis

I have reviewed all documentary evidence and in accordance with s.. 81 of the *Act*, I find the landlords served the tenants with the One-Month Notice on October 22, 2020. This is as set out in the landlords’ Proof of Service document, uncontradicted by the tenants here.

I accept the evidence before me that the tenants sublet the rental unit. Moreover, the tenants did not dispute the One-Month Notice within the 10-day time period granted under s. 40(4) of the *Act*.

Based on the foregoing, I find that the tenant is conclusively presumed under s. 40(5) of the *Act* to have accepted that the tenancy ended on November 30, 2020.

The *Act* s. 45 provides:

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). . . state the grounds for ending the tenancy,
 . . .and
- (e) when given by a landlord, be in the approved form.

I find the One-Month Notice bears sufficient detail as to comply with the requirements of s. 45 regarding form and content. The pertinent details of the end of tenancy date and the date of issue are provided. As such, I find the tenant was aware of the reasons for the LL issuing the One-Month Notice on October 22, 2020.

I find the landlord is entitled to an Order of Possession for the above reasons.

Conclusion

By s. 48(3) of the *Act*, I grant the landlord an Order of Possession effective two days after its service by the landlord on the tenant. Should 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.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: March 17, 2021

Residential Tenancy Branch