



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Port4Homes Inc
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MT- CNC, OPC

Introduction

This hearing was convened in response to applications by the landlord and the tenant.

The landlord's application is seeking orders as follows:

1. For an order of possession, based on a One Month Notice to End Tenancy for Cause (the "Notice"), issued on December 24, 2020.

The tenant's application is seeking orders as follows:

1. To dispute the Notice, and be allowed more time to dispute the Notice; and
2. To have the landlord comply with the Act.

Both parties appeared, gave affirmed testimony, and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions at the hearing.

The tenant confirmed they did not provide any evidence to the landlord in support of their application. Therefore, I find I must exclude any evidence filed by the tenant.

The tenant confirmed that they have received notification to pickup the landlord's evidence; however, they have been banned from that store. The tenant understands that as they were served in accordance with the Act, I will consider the evidence of the landlord.

Both the landlord's agents, and the tenant confirmed that they are complying with the Residential Tenancy Branch Rules of Procedures 6.11 and are not making any unauthorized recording of this hearing.

Issues to be Decided

Should the tenant be granted more time to dispute the Notice?
Should the Notice be cancelled or upheld?

Background and Evidence

The tenancy began May 2008. Rent in the amount of \$532.58 was payable on the first of each month.

Tenant's application

The first issue I must determine is whether the tenant should be granted more time to dispute the Notice, due to an exceptional circumstance.

The tenant testified they received the Notice on January 6, 2021. The tenant stated that that between their own mental health issues, kids and the stress of their children seeing the eviction notice they did not dispute the Notice within the statutory time limit. The tenant stated they were also in the hospital in November 2020.

Landlord's application

The landlord's agent testified that the tenant received the Notice, in the proper form, which was not disputed within the statutory time limit. The landlord seeks an order of possession. Filed in evidence is a copy of the Notice.

The landlord's agent stated that they are willing to give the tenant until May 31, 2021 to vacate the site.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Tenant's application

In this case, the tenant received the Notice on January 6, 2021, I find the last day the tenant had to make their application for dispute resolution to dispute the Notice was January 16, 2021. Since that was a date the Residential Tenancy Branch was not open that date automatically extended to the first business day of January 18, 2021. The tenant made their application for dispute resolution on February 10, 2021, requesting to be allowed more time to make their application to dispute the Notice.

Under section 66 of the Act, I may extend a time limit established in the Act, **only in exceptional circumstances.**

While I accept the tenant may have mental health issues and having children and being evicted is stress full; however, that is not an exceptional circumstance, such as being hospitalized during the dispute period. The tenant provided no reasonable explanation for the unreasonable delay of 5 weeks, I find it would be unreasonable to grant the tenant more time to dispute the Notice, for these reasons. Therefore, I dismiss the tenant's application.

Landlord's application

I accept the evidence of the landlord and the tenant that the Notice was completed in accordance with Part 4 of the Act - How to End a Tenancy, pursuant to section 47 of the Act. A copy of the Notice was filed in evidence for my review and consideration.

I find the Notice was completed in the approved form and the contents meets the statutory requirements under section 52 the Act.

Further, I accept the evidence of the tenant that they were served with the Notice in compliance with the service provisions under section 88 of the Act.

I am satisfied based on the landlord's evidence that the landlord has met the statutory requirements under the Act to end a tenancy.

The tenant did not apply to dispute the Notice within the statutory time limit and therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act. As the landlord has agreed to give the tenant until May 31, 2021, to vacate the

site, which is reasonable. I grant the landlord an order of possession effective May 31, 2021. A copy of this order must be served upon the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The tenant failed to dispute the Notice within the statutory time limit. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy. The tenant's application for more time to dispute the Notice is dismissed.

The landlord is granted an order of possession effective May 31, 2021.

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: April 19, 2021

Residential Tenancy Branch