



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL

Introduction, Background and Analysis

On October 14, 2020 an Application for Dispute Resolution was filed by the tenant under the Manufacture Home Park Tenancy Act (the “Act”) to cancel One Month Notice to End Tenancy for Cause, issued on October 10, 2020. That matter was heard on January 8, 2021 and the tenant’s application was granted.

On February 5, 2021 the landlord made an application for review consideration, which on February 11, 2021 a decision was made granting a new hearing on the basis that they were unable to attend at the original hearing because of circumstances that could not be anticipated and were beyond their control.

The Arbitrator ordered the parties to participate in a new hearing, and the original decision was suspended. The Arbitrator at the new hearing may confirm, vary or set aside the original decision.

This new hearing dealt with an Application for Dispute Resolution by the tenant to cancel a One Month Notice to End Tenancy for Cause, issued on October 10, 2020 (the “Notice”)

Only the landlord’s agents appeared. The landlords agents stated that they complied with the direction in the review decision by serving a copy of the decision and notice of hearing on the tenant for today’s date, in person, on February 11, 2021.

The landlord’s agent stated that they never were served with the tenant’s application for dispute resolution.

In this case the onus is on the tenant to prove they served the landlord with their application for dispute resolution, in a method permitted under section 82 of the Act. As the tenant did not appear, and I have confirmed with the Residential Tenancy Branch digital file that the tenant was sent an email reminder of today's date to the email address listed in their application for service.

I must accept the undisputed evidence of the landlords that they were not served with the tenant's application in accordance with section 82 of the Act. Therefore, I dismiss the tenant's application without leave to reapply.

In most cases I would grant the tenant leave to reapply, when service has not been proven; however, any future application would be filed outside of the statutory time frame and after the effective date of the Notice and would be barred from being heard.

Since I have dismissed the tenant's application as it was not served upon the landlord, I find it not necessary to consider the merits for ending the tenancy. However, I must determine whether the landlord has met the statutory requirements under the Act to end the tenancy.

I accept the evidence of the landlord's that the Notice was completed in accordance with Part 4 of the Act; How to End a Tenancy, pursuant to section 40 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 proper form and meets the statutory requirements under section 45 the Act to the form and content.

Further, I accept the evidence of the landlord that the tenant was served with the Notice in compliance with the service provisions under the Act, as the tenant acknowledged service of the Notice in their application.

I am satisfied based on the landlord's evidence that the landlord has met the statutory requirements under the Act on how to end a tenancy. The Notice was issued in the proper form and content in compliance section 45 of the Act and was served upon the tenant.

Since the tenant's application was dismissed, and I have found the landlord has met the statutory requirements under the Act to end the tenancy. I find the landlord is entitled to an order of possession pursuant to section 48 of the Act.

Therefore, I find that the landlord is entitled to an order of possession effective **two days** after service on the tenants. 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.

Therefore, the original decision made on January 8, 2012, is set aside and replaced with this Decision and Order.

Conclusion

The tenant's application is dismissed.

The landlord is granted an order of possession.

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: May 07, 2021

Residential Tenancy Branch