



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPM FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Manufactured Home Park Tenancy Act* (the "**Act**") for:

- an order of possession by mutual agreement pursuant to section 48; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 65.

Both parties attended the hearing. The landlord was assisted by two agents ("**JG**" and "**AG**"). All were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The landlord testified, and the tenant confirmed, that the landlord served the tenant with the notice of dispute resolution form and supporting evidence package by registered mail. I find the tenant was served in accordance with the Act. The tenant confirmed that he did not provide any documentary evidence in support of his opposition to the landlord's application.

Issues to be Decided

Is the landlord entitled to:

- 1) an order of possession; and
- 2) recover the filing fee?

Background and Evidence

While I have considered the documentary evidence and the testimony of the parties, not all details of their submissions and arguments are reproduced here. The relevant and important aspects of the parties' claims and my findings are set out below.

The tenant and the landlord's now-deceased father entered into a verbal tenancy agreement. The parties disagree on the date; the landlord testified the tenancy started "about six years ago" and the tenant testified it start "about eight years ago". In any event, the tenant pays the landlord monthly rent of \$200 for the rental of a manufactured home and the pad on which it sits. The tenant did not pay the landlord any deposit at the start of the tenancy.

On August 22, 2020, the parties entered into a mutual agreement to end tenancy (using form #RTB-8) whereby the tenant agreed to vacate the pad and the manufactured home on June 30, 2021. A copy of this agreement was entered into evidence. The tenant confirmed that he signed this document.

However, the tenant alleged that the address and postal code of the pad listed on the mutual agreement is incorrect. JG agreed that the postal code is incorrect (being the postal code for the landlord's home). The address listed on the mutual agreement is recorded on the cover of this decision. I will refer to it in this decision by its site and street numbers (the "**1-7474 Address**").

The tenant testified that the pad's address on the mutual agreement is his *mailing address* and not the address of the pad itself. He claims that a different address (recorded on the cover of this decision) is the correct address of the pad. I will refer to this address by its street number (the "**6880 Address**"). Both the 1-7474 Address and the 6880 Address are located on the same street, in the same city.

The tenant testified that he did not notice the incorrect address on the mutual agreement when he signed it. He asked that the mutual agreement be cancelled due to it being improperly completed.

The tenant testified that the 1-7474 Address is not an address that is capable of being occupied, whereas the 6880 Address can be occupied. He testified that he has never occupied a pad at the 1-7474 Address.

The landlord disagreed. She testified that the 1-7474 Address is capable of being occupied and is located next to another unit with the street address 7474. She testified that the tenant posted a sign on a nearby highway showing the 1-7474 Address. The tenant denied this. JG testified that the landlord sent her evidence package to the 1-7474 Address, and that the tenant confirmed receipt of it earlier in the hearing (which is not surprising, considering he claims that it is his mailing address).

During the hearing, JG testified he typed the postal code given the tenant for the 6880 Address into the Canada Post website and testified that the 6880 Address does not exist in the Canada Post system, whereas the 1-7474 Address does. After the hearing, I confirmed that the 6880 Address does not appear on a search of all addresses located on the road the tenant purports the 6880 Address to be located on, whereas the 12-7474 Address does.

The tenant provided no evidence to support his assertion that the pad was located at the 6880 Address, or that the 6880 Address even exists.

The tenant also testified that he had recently been in a bad car accident and that he has broken his back and collar bone, so moving would be difficult for him. He did not provide

any documentary evidence supporting this claim (such as an accident report, medical record or a note from his doctor).

Analysis

Section 37(1)(c) of the Act states:

How a tenancy ends

37(1) A tenancy ends only if one or more of the following applies:

[...]

(c) the landlord and tenant agree in writing to end the tenancy;

The parties do not dispute that a written agreement to end tenancy exists. The tenant acknowledged signing the mutual agreement and that he understood at the time he signed it that it was an agreement to end the tenancy. He acknowledged not noticing an error in the address at the time he signed it.

Based on the testimony of the parties, I am confident that, at the time they entered into the mutual agreement, they both understood that the property the tenant was agreeing to vacate was the property at which he resided. I do not find that the tenant believed he was agreeing to vacate his mailing address.

Since the mutual agreement was entered into, the tenant has not relocated to a different address. As such, at the time the parties entered into the mutual agreement, the parties agreed that the tenant would vacate the address at which the tenant is presently residing.

Accordingly, I placed little significance as to whether or not the address recorded on the mutual agreement to end tenancy is correct. The intentions of the parties at the time of entering into that agreement are abundantly clear: the tenant, on June 30, 2021, would vacate the place he was living at the time he signed the mutual agreement.

Furthermore, based on the testimony of the parties, I am not persuaded that 6880 Address actually exists. The address does not show up in the Canada Post system and the tenant has not provided any corroborating evidence whatsoever as to its existence. By comparison, the 1-7440 Address demonstrably exists, as the tenant received mail there. I find it more likely than not that the pad is located at the 1-7440 Address.

Finally, the tenant's claim that he was recently in a car accident has no bearing as to the validity of the mutual agreement to end tenancy. There is no basis in the Act which would allow me to cancel or vary mutual agreement to end tenancy based on a tenant's inability to move on the effective date of a mutual agreement.

Accordingly, I ordered that the tenant provide the landlord with vacant possession of the 1-7474 Address (the address for which the landlord has applied for an order

possession) within seven days of being served with a copy of this decision and the attached orders.

Pursuant to section 65(1) of the Act, as the landlord has been successful in the application, she may recover the filing fee from the tenant.

Conclusion

Pursuant to section 65 of the Act, I order that the tenant pay the landlord \$100, representing the return of the filing fee.

Pursuant to section 48 of the Act, I order that the tenant deliver vacant possession of the rental unit and underlying pad to the landlord within seven days of being served with a copy of this decision and attached orders by the landlord.

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: September 30, 2021

Residential Tenancy Branch