



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNC, OLC**

Introduction

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

1. Cancellation of the Landlord's One Month Notice to End Tenancy for Cause (the "One Month Notice") pursuant to Section 40 of the Act; and,
2. An order for the Landlord to comply with the Act, regulations and tenancy agreement pursuant to Section 55(3) of the Act.

The hearing was conducted via teleconference. The Landlord, RL, and the Tenant, TS, attended the hearing at the appointed date and time. Both parties were each given a full opportunity to be heard, to present affirmed testimony, to call witnesses, and make submissions.

Both parties were advised that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. Both parties testified that they were not recording this dispute resolution hearing.

TS stated she served the Landlord with the Notice of Dispute Resolution Proceeding package and all evidence on July 15 or 16, 2021 by registered mail (the "NoDRP package"). TS referred me to the Canada Post registered mail receipt with tracking number submitted into documentary evidence as proof of service. The date the NoDRP package was brought into the Canada Post office was July 29, 2021. I have noted the registered mail tracking number on the cover sheet of this decision. RL confirmed receipt of the NoDRP package on August 11, 2021. I find that the Landlord was sufficiently served with the documents for this hearing on August 11, 2021 pursuant to Section 64(2)(b) of the Act.

Issues to be Decided

1. Is the Tenant entitled to a cancellation of the Landlord's One Month Notice to End Tenancy for Cause?
2. Is the Tenant entitled to an order for the Landlord to comply with the Act, regulations and tenancy agreement?

Background and Evidence

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

This periodic tenancy began on January 13, 2020. Monthly rent is \$310.00 payable on the first day of each month.

RL stated he served the One Month Notice on TS in early July 2021; he did not remember the exact day. The reason given for the One Month Notice was a breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so. The date of the One Month Notice was July 12, 2021, and the effective date is noted as August 15, 2021. TS said the One Month Notice was served by leaving a copy in her mailbox.

At the outset of the hearing, TS advised that she has sold the trailer home.

RL testified that the One Month Notice was issued because of the need for grass seed on the soil. TS stated that she has put grass seed down, and that she had sent pictures to RL of its placement. One undated picture in the documentary evidence included a photo of a dirt area of yard space, with what looks like seed scattered on top of the soil. There is also a hose with a sprinkler attached placed in the photo.

RL stated that he did not want to go through with this One Month Notice, and that the only reason why he continued was because he was told by the RTB that it was the only way he would get the landscaping completed in his trailer park.

TS said she would like the trailer to sell, so she can move on. She did not provide any evidence on any order she was seeking for the Landlord to comply with the Act, regulations or tenancy agreement.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. Where a tenant applies to dispute a notice to end a tenancy issued by a landlord, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the notice to end tenancy were based.

Landlord's notice: cause

- 40 (1) *A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:*

...

(g) *the tenant*

(i) *has failed to comply with a material term, and*

(ii) *has not corrected the situation within a reasonable time after the landlord gives written notice to do so;*

...

- (3) *A notice under this section must comply with section 45 [form and content of notice to end tenancy].*

- (4) *A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.*

...

RL served TS with the One Month Notice as he thought this was the only way to get her to comply with, what he felt was a material term of getting grass planted around TS' trailer. TS has planted grass seed, but because it is wintertime, it cannot be determined if the seed has successfully established itself. TS has put her trailer up for sale, and RL has spoken with the buyer and is agreeable to them moving into the trailer park. He has determined that he will work with the new buyer to ensure there is some kind of holdback on TS, so that if the grass seed planted has not sprung up in the spring, the buyer will have some recourse.

I find that the Landlord has failed to provide sufficient evidence that the One Month Notice should be upheld. I cancel the Landlord's One Month Notice, and the tenancy will continue until ended in accordance with the Act.

The Tenant's application to dismiss the One Month Notice is granted. TS did not seek any order for the Landlord to comply with the Act, regulations or tenancy agreement, so this part of the Tenant's claim is dismissed without leave to re-apply.

Conclusion

The Landlord's One Month Notice is dismissed and is of no force or effect. This tenancy shall continue until it is ended in accordance with the Act.

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

Dated: November 26, 2021

Residential Tenancy Branch