



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFT, CNC, PSF, DRI

Introduction

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 40;
- an order to the landlord to provide services or facilities required by law pursuant to section 58;
- an order regarding a disputed rent increase pursuant to section 36; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 65.

At the outset of the hearing, I explained to the parties that as these hearings were teleconferences, the parties could not see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so.

All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation. All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Both parties confirmed that they were ready to proceed with the hearing, they did not want to settle this application, and they wanted me to make a decision regarding this application. Neither party made any adjournment or accommodation requests. I have reviewed all oral and written submissions before me;

however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to Decide

Should the landlord's One Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Should an order be made to compel the landlord to provide services and facilities as per the tenancy agreement and the MHPTA?

Is a determination required for a rent increase?

Is the tenant entitled to the recovery of the filing fee?

Background and Evidence

The parties agreed to the following. The tenancy began on June 1, 2019 with the rent of \$691.88 due on the first of each month. The landlord issued a One Month Notice to End Tenancy for Cause on April 23, 2022 for the following reasons:

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:*

(b) the tenant is repeatedly late paying rent;

DH testified that the tenant has been late in paying the rent for the following months: September 2021, October 2021, November 2021, December 2021, January 2022, February 2022, April 2022, May 2022 and July 2022. JM testified that the tenant could have easily avoided this issue if he had provided post dated cheques. DH testified that he is seeking an order of possession.

TB testified that he was operating under old information and that was the reason the rent was late as often as it was. TB testified that he has already moved out of the manufactured home and requests that he is allowed to leave it on the site until he sells it. The tenant testified that the landlord wanted \$725.00 a month without providing a rent increase form.

Analysis

When a landlord issues a notice to end tenancy, they bear the burden of providing sufficient evidence to support the issuance of the Notice. In this case, the landlord and tenant agree that the tenant was late in paying the rent eight times in the past twelve months.

Residential Tenancy Policy Guideline #38 provides the following guidance regarding the circumstances whereby a landlord may end a tenancy where the tenant is repeatedly late paying rent.

Three late payments are the minimum number sufficient to justify a notice under these provisions...

However, if the late payments are far apart an arbitrator may determine that, in the circumstances, the tenant cannot be said to be “repeatedly” late...

There is clear evidence that the written tenancy agreement requires the tenant to pay all of the rent by the first of each month. The evidence presented indicates that the tenant has been late in paying his rent on at least three occasions in the past twelve months. For these reasons, I am satisfied that there is a recurring pattern of late payment of rent during this tenancy and that the landlord had adequate grounds to issue the One Month Notice for the tenant's late payment of rent.

Section 48 of the *Act* reads in part as follows:

48 (1) *If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if*

(a) the landlord's notice to end tenancy complies with section 45 [form and content of notice to end tenancy], and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I find that the landlord's One Month Notice was issued on the correct form and included all the required information in order to comply with section 45 of the *Act* as to the form

and content of that Notice. I dismiss the tenant's application to cancel the One Month Notice and issue the landlord an Order of Possession in accordance with section 48(1) of the *Act*.

The tenant did not provide sufficient evidence regarding the rent increase, accordingly; I dismiss that portion of his application. As the tenancy is now over, I also dismiss without leave the tenants request for an order to have the landlord provide services and facilities as per the tenancy agreement or MHPTA and dismiss without leave the tenants request to recover the filing fee.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** 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.

I dismiss the tenants application in its entirety without leave to reapply.

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: August 29, 2022

Residential Tenancy Branch