



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **ET FFL**

Introduction

This hearing was convened as a result of the Landlord's application for dispute resolution ("Application") under the *Manufactured Home Park Tenancy Act* (the "Act") for:

- an early termination of the tenancy and an Order of Possession pursuant to section 49; and
- authorization to recover the filing fee for the Application from the Tenant pursuant to section 65.

The Tenant did not attend this hearing scheduled for 11:00 am. I left the teleconference hearing connection open for the entire hearing, which ended at 11:40 am, in order to enable the Tenant to call into this teleconference hearing. Two of the Landlord's agents ("RD" and "JD") attended the participatory hearing. The parties were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding ("NDRP"). I also confirmed from the teleconference system that RD and JD and I were the only ones who had called into this teleconference.

RD stated the Landlord served the NDRP and its evidence (collectively the "NDRP Package") on the Tenant by registered mail on August 3, 2022. RS submitted into evidence a signed and witnessed Proof of Service on Form RTB-9 certifying the NDRP Package was served on the Tenant to corroborate her testimony. If find the NDRP Package was served on the Tenant pursuant to the provisions of sections 81 and 82 of the Act.

Preliminary Matter – Request for Withdrawal of Application

At the outset of the hearing, I explained to RD and JD the requirements for ending a tenancy early pursuant to section 49(2) of the Act. In particular, I told RD and JD that, in addition to demonstrating a cause for ending the tenancy under section 49(2)(a) of the Act, they must also demonstrate under section 49(2)(b) of the Act that it would be unreasonable, or unfair to the landlord or other occupants of the manufactured home park, to wait for a notice to end the tenancy under section 40.

I also advised RD and JD that *Residential Tenancy Policy Guideline 51*, which provides guidance on Expedite Hearings, states in part:

Applications to end a tenancy early are for very serious breaches only and require sufficient supporting evidence. An example of a serious breach is a tenant or their guest pepper spraying a landlord or caretaker.

The landlord must provide sufficient evidence to prove the tenant or their guest committed the serious breach, and the director must also be satisfied that it would be unreasonable or unfair to the landlord or other occupants of the property or park to wait for a Notice to End Tenancy for cause to take effect (at least one month). *Without sufficient evidence the arbitrator will dismiss the application.*
[...]

[emphasis in italics added]

RD and JD discussed it amongst themselves and JD stated the Landlord was withdrawing the Application. Based on the foregoing, I dismiss the Application in its entirety with leave to reapply.

Conclusion

The Application is dismissed in nits entirety with 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 18, 2022

Residential Tenancy Branch