



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **OPC, FFL, CNC-MT, OLC, RPP**

Introduction

This hearing was convened by way of conference call in response to cross Applications for Dispute Resolution filed by the parties pursuant to the *Manufactured Home Park Tenancy Act* (the “Act”) for Orders as follows

The tenant applied as follows:

- for cancellation of the landlord’s One Month Notice to End Tenancy (“One Month Notice”) pursuant to section 40;
- for more time to make an application to cancel the One Month Notice pursuant to section 59.
- for return of personal property

The landlord applied as follows:

- for an order of possession pursuant to section 48, and
- for recovery of the filing fee pursuant to section 65.

The parties that attended the hearing for the landlord were DB, TL and MK, who all act as agents for the landlord. The tenant, BL, appeared for herself along with two assistants AG, and CA.

The parties confirmed they were not recording the hearing pursuant to Rule of Procedure 6.11. The parties were affirmed.

The tenant acknowledged receipt of the One Month Notice dated May 9, 2022 personally served on her on May 9, 2022. The parties each testified that they received

the respective dispute materials and based on their testimonies I find each party duly served in accordance with sections 81 and 82 of the *Act*.

Preliminary Matters

The tenant applied to dispute this One Month Notice on May 27, 2022, they also applied for more-time to make their application for dispute. It was confirmed by the tenant BL in the hearing that the person who filed the tenant's application for dispute resolution is not a tenant of the residence. He is not a party to the tenancy agreement. He did not appear at the hearing. The tenant BL did not state that the applicant filed the application for dispute resolution on her behalf. Section 51 only allows a person to make an application in respect of their landlord. There is no landlord-tenant relationship between the person who filed the dispute application and the party named as the landlord in the application. Additionally, the application was out of time pursuant to section 40(4) of the *Act*. The tenant had until May 19, 2022, ten days after receipt of the Notice to dispute it.

Therefore, the application for dispute resolution purported to be filed by a tenant is dismissed.

Issue(s) to be Decided

1. Is the One Month Notice valid and enforceable against the tenant? Is the landlord entitled to an order of possession?
2. Is the landlord entitled to recover the filing fee for this application?

Background and Evidence

The tenancy commenced on December 1, 2017, on a month-to-month basis. Current rent is \$415.00. The tenant currently occupies the rental property.

On May 9, 2022, the landlord issued a 1 Month Notice to End Tenancy for Cause. The reason cited on the notice was listed as follows:

- The tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to damage the landlord's property and adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant.

- Breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord's agent BL stated that there have been complaints and concerns from other park residents and from herself that one of the tenant's visitors has been very disruptive in the park.

The tenant stated that it would be very difficult for her to leave the property. She has health issues which affect her mobility and her cognitive function. It will take a significant time for her to find new suitable accommodations as she would have to sell the trailer she owns. I note that most of the tenant's information was communicated through her two assistants, who also stated that they are endeavouring to find a placement for the tenant in assisted living. The assistants were also aware of the concerns the landlord had with respect to the subject residence and the letters sent to the tenant asking her to rectify the situation.

Analysis

The tenant received the landlord's One Month Notice on May 9, 2022. Pursuant to section 40(4) of the Act, "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."

This section continues by stating, at 40(5):

If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the manufactured home site by that date.

Section 45 of the Act states:

45 In order to be effective, a notice to end a tenancy must be in writing and must

(a) be signed and dated by the landlord or tenant giving the notice,

- (b)give the address of the manufactured home site,
- (c)state the effective date of the notice,
- (d)except for a notice under section 38 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e)when given by a landlord, be in the approved form.

The One Month Notice meets the form and content requirements of section 45 of the Act.

Section 48 of the Act states:

- 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 manufactured home site 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.

The tenant's application for dispute resolution was out of time under section 40(5) of the Act, was dismissed, and the tenant did not provide any evidence in response to the landlord's application for an order of possession. I therefore find that the landlord is entitled to an order of possession for the rental property.

As the landlord is successful in their application the landlord is entitled to reimbursement of their filing fee.

Conclusion

The landlord is granted an order of possession which will be effective two days after it is served on the tenant. The order of possession must be served on the tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The landlord is granted a monetary order for \$100.00 in recovery of the filing fee. The monetary order must be served on the tenant. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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

Dated: October 11, 2022

Residential Tenancy Branch