



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding Y&O Stencels Management Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution under the *Manufactured Home Park Tenancy Act* (the "Act") for cancellation of the One-Month Notice to End Tenancy for Cause (the "One-Month Notice"). The Tenant also applied for recovery of the Application filing fee.

The Landlord made a subsequent Application for an order of possession based on the One-Month Notice. The Landlord also applied for recovery of the Application filing fee.

The matter proceeded by way of a hearing pursuant to s. 67(2) of the *Manufactured Home Park Tenancy Act* (the "Act") on December 28, 2023.

Preliminary Matters

At the outset of the hearing, the Landlord stated they did not receive the Notice of Dispute Resolution Proceeding from the Tenant. The Landlord contacted the Residential Tenancy Branch and then completed their own Application for an order of possession. In the hearing, the Tenant was not clear about how they served the Notice of Dispute Resolution Proceeding document to the Landlord.

The Notice of Dispute Resolution Proceeding was sent to the Tenant by the Residential Tenancy Branch, via email, on September 22, 2023. The instructions in the message are explicit that "You must serve the Notice of Dispute Resolution Proceeding package by Sep 25, 2023 in one of the following ways. . . ", then lists the methods of service available.

The Act s. 52 contains the provisions for starting proceedings in a dispute resolution. Subsection (3) states: ". . . a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director."

The *Act* s. 81 gives the rules for service of the application for dispute resolution. This is by leaving a copy with the person or their agent or sending a copy via registered mail.

Additionally, the Rules of Procedure that are crafted to ensure a fair process; these specify the documents to be served by the applicant (here, the Tenant) to the respondent (here, the Landlord). These are: the Notice of Dispute Resolution Proceeding provided when applying; the Respondent Instructions for Dispute Resolution; a process fact sheet; and other evidence submitted by the applicant.

I find the Tenant did not provide a copy of the Notice of Dispute Resolution Proceeding – that document that is generated when a person applies for dispute resolution – to the Landlord. The *Act* requires proper service in line with administrative fairness in which a party's legal rights and obligations are challenged. I dismiss the Tenant's Application for Dispute Resolution for this reason; however, the Tenant has leave to reapply on this issue, and any others that they feel apply to the current situation in this tenancy.

I have dismissed the Tenant's Application; therefore, they are not eligible to recover the Application filing fee.

I find the Landlord served the Notice of Dispute Resolution Proceeding for their Application to the Tenant, along with evidence, as required. The Tenant confirmed this in the hearing.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to recovery of the Application filing fee?

Background and Evidence

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant to my decision.

The Landlord provided a copy of the One-Month Notice they served to the Tenant on September 19, 2023. This set the end-of-tenancy date for October 25, 2023. The

second page of the document lists the Landlord's reason for ending the tenancy: this is the Tenant subletting the rental unit without authorization from the Landlord, allegedly a breach of the tenancy agreement.

In the hearing, the Landlord referred to paragraph 26 of the tenancy agreement/park rules as applicable to the situation. The pages of the agreement the Landlord provided for this hearing do not have a paragraph 26.

In the hearing, the Tenant presented why they feel the situation is not one of subletting. The Landlord presented that the situation is, from their perspective, one where the Tenant sublet the rental unit without approval.

Analysis

The *Act* s. 48 states, in part:

- 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 52 [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 *Act* s. 45 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 rental unit,
 - (c) state the effective date of the notice,
 - (d) . . . state the grounds for ending the tenancy,
 - . . . and
 - (e) when given by a landlord, be in the approved form.

In this hearing, the Landlord provided a copy of the One-Month Notice. The copy was not signed by the Landlord. Other documents in the Landlord's evidence *are* signed, so I cannot necessarily attribute this to the Landlord serving the One-Month Notice attached to an email to the Tenant.

Because the document does not meet the requirements of s. 45, the Landlord did not meet the condition of s. 48(1).

For this reason, I order the One-Month Notice to be cancelled. The tenancy shall continue until it is ended in accordance with the *Act*.

The Landlord was not successful in this Application; therefore, I grant no reimbursement of the Application filing fee.

Conclusion

I dismiss the Tenant's Application in its entirety, as set out above.

I dismiss the Landlord's Application in its entirety, without leave to reapply.

I make this decision on the authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: December 28, 2023

Residential Tenancy Branch