

## **DECISION**

### **Introduction and Procedural History**

This hearing dealt with the Tenant's Application for Dispute Resolution under the *Manufactured Home Park Tenancy Act* (the Act) for:

- cancellation of the Landlord's One Month Notice to End Tenancy for Cause (One Month Notice) and an extension of the time limit to dispute the One Month Notice under sections 40 and 59 of the Act

This hearing also dealt with the Tenant's cross Application for Dispute Resolution under the *Manufactured Home Park Tenancy Act* (the Act) for:

- cancellation of the Landlord's One Month Notice to End Tenancy for Cause (One Month Notice) and an extension of the time limit to dispute the One Month Notice under sections 40 and 59 of the Act

For context, there appears to be two separate One Month Notice's currently in dispute, and a past one month notice to end tenancy for cause that has been disputed. The parties appeared at a Previous Hearing, the file number of the Previous Hearing is referenced on the cover page of this Decision, and at the Previous Hearing the Decision dated September 27, 2024, the arbitrator cancelled one of the notices to end tenancy for cause, and informed the Tenant's that should they wish to dispute the two remaining One Month Notice's, they may file an application at the Residential Tenancy Branch.

Tenant K.E., Tenant's Subtenant and Agent C.D., Tenant's Advocate M.S. attended the hearing for the Tenant.

No one attended the hearing for the Landlords.

### **Service of the Notices of Dispute Resolution Proceeding and Evidence**

The Tenant's Subtenant and Agent C.D. testified that they served both Notices of Dispute Resolution Proceeding by registered mail on October 8, 2024. C.D. elaborated that the two Landlords were individually served, and that the Tenant sent the packages to the Landlord's address for service as listed on the tenancy agreement and the park rules. C.D. declared that all the Tenant's evidence for both applications was sent by registered mail on October 11, 2024. C.D. stated that the two Landlords were

individually served, and that the Tenant sent the packages to the Landlord's address for service.

The Tenant submitted completed copies of the proof of services forms for both applications.

Based on the above, I find that the Tenant served both Notices of Dispute Resolution Proceeding and Evidence for both applications in compliance with section 81 and 82 of the Act. Under section 83 of the Act, the Landlords are deemed to have received the Notices of Dispute Resolution Proceeding on October 15, 2024, on the fifth day after the registered mail was posted. Under section 83 of the Act, the Landlords are deemed to have received the Tenant's evidence on October 16, 2024, on the fifth day after the registered mail was posted.

## **Preliminary Issues**

### **Attendance**

The Tenant called into this teleconference at the date and time set for the hearing of this matter. The Landlords did not attend the hearing at any time even though I left the conference call open to allow any person with the call in details to attend for the approximately 61-minute hearing.

I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Tenant E.K., Tenant's Subtenant and Agent C.D., and Tenant's Advocate M.S. and I were the only persons who had called into this teleconference.

Rules 7.1 and 7.3 of the Rules of Procedure provide as follows:

#### *Rule 7 – During the hearing*

##### **7.1 Commencement of the dispute resolution hearing**

*The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.*

##### **7.3 Consequences of not attending the hearing**

*If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.*

The Tenant testified they were ready to proceed. Given the Tenant's have demonstrated sufficient service of the Notices of Dispute Resolution Proceeding above,

I exercise my discretion under Rule 7.3 to conduct the hearing in the absence of the Landlords.

### **Request for More Time**

The Director of the Residential Tenancy Branch (the RTB) has delegated authority to me under section 9.1(1) of the Act to review your applications for dispute resolution.

For the following reasons, the Tenant's application and cross application are refused under section 52(5)(a) of the Act because the application was made after the effective date of the One Month Notices

Section 59(1) of the Act states that the director may extend a time limit established by this Act only in exceptional circumstances.

Section 59(3) of the Act states that the director must not extend the time limit to make an application for dispute resolution to dispute a notice to end tenancy beyond the effective date of the notice.

In this case, The Tenant submitted copies of two One Month Notices. The first Notice dated July 26, 2024, with an effective date of August 27, 2024. The second Notice dated July 29, 2024, with an effective date of August 30, 2024. At the hearing, the Tenant confirmed that they received the first Notice on July 26, 2024, and the second Notice on July 29, 2024.

On review of both applications before me, the filing records on the RTB's Dispute Management System indicate that the Tenant filed both of their applications on October 1, 2024, to dispute the Landlord's One Month Notices served under section 40 of the Act.

Section 40(4) of the Act states that a tenant may dispute a notice given under section 40 of the Act by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

Section 51(2)(b) of the Act states that the director must not resolve a dispute if the application for dispute resolution was not made within the applicable time limit period specified under the Act.

Based on section 51(2)(b) of the Act and the fact that both the application and the cross application was filed after the effective date of both One Month Notices, specifically not in compliance with section 40(4) of the Act, I do not have the authority to extend the time limit to allow the Tenant to make an application to dispute both of the One Month Notices.

### **Conclusion**

I refuse to accept the Tenant's application and cross application for dispute resolution because it does not disclose a dispute that may be determined under section 52(5)(a) of 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 1, 2024

---

Residential Tenancy Branch