



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDC

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking additional time to file an Application to cancel a Notice to End Tenancy and for an order to cancel a 10 day Notice to End Tenancy for unpaid rent.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure, however, I refer to only the relevant facts and issues in this decision.

Preliminary Issue

I allowed the Tenant more time to file the Application and I allowed the hearing to proceed on the merits.

The Tenant asked if I had received evidence this morning regarding her Application. I explained that her evidence was late and I had not received a copy of it. I have not considered the late evidence submitted by the Tenant.

Issue(s) to be Decided

Should the 10 day Notice to End Tenancy for unpaid rent be cancelled?

Background and Evidence

Based on the testimony of both parties, I find that the Tenant was served with a 10 day Notice to End Tenancy for non-payment of rent in the amount of **\$5,001.15**, by facsimile on December 5, 2012 (the "Notice"). During the hearing the Tenant acknowledged service on that day by fax.

The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Tenant applied to cancel the Notice.

The Agent for the Landlord testified that the Notice was issued because the Tenant has not paid rent for the rental site since about October of 2011, and as of December 1, 2012, owed \$5,001.15 in unpaid site rent.

The Agent for the Landlord testified that they were patient with the rent since the Tenant informed them she had a medical condition and needed treatment outside of the province. The Landlord had also been informed by the Tenant that she was arranging for a loan to pay the arrears. The Landlord alleges the Tenant used the loan money for other purposes and did not pay any pad rent with it.

The Agent for the Landlord testified that the Tenant had a renter in the manufactured home for a while, however, the Tenant has not paid pad rent for over a year.

The Tenant testified that she agreed the past rent was owed and she had not paid rent as she has been ill and unable to work. She testified she had a renter in the rental unit for a while but this person did not pay the Tenant her rent either.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I find the Notice to end tenancy is valid and may be enforced. Therefore, **I dismiss the Tenant's Application.**

I find the Tenant has not paid the Landlord outstanding rent that is due based on her own admissions. The Landlord has been sympathetic with the Tenant due to her alleged illness, however, the Tenant has failed to pay rent for many months and presented no plans to pay the Landlord in the near future. Therefore, the tenancy must end.

Following my dismissal of the Tenant's Application, the Agent for the Landlord requested an order of possession, which was also contained in their written submissions. Under section 48 of the Act, I must grant that request.

I grant and issue an order of possession for the rental site **effective two days after service on the Tenant**. This order may be filed in the Supreme Court and enforced as an order of that Court.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: January 21, 2013