



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DIALAR LTD O/A BIGTENT RV PARK AND FAMILY CAMP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Manufactured Home Park Tenancy Act* (the MHPTA) for:

- an early end to this tenancy and the issuance of an Order of Possession pursuant to section 49; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 65.

The landlord testified that the tenant was personally served the notice of hearing package, the application and evidence on January 4, 2020 in the presence of a witness. I am satisfied that the tenant has been served in accordance with section 82 of the Act and therefore proceed in their absence.

Issue(s) to be Decided

Is the landlord entitled to an early end of tenancy and an Order of Possession?
Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord gave the following testimony. The landlord testified that the tenant has been living in the park "about a year". The landlord testified that the monthly rent is \$650.00 due on the first of each month. The landlord testified that the tenant has not paid any rent for six months and he has now lost his job. The landlord testified that the tenant is a nuisance to the park as well. The landlord testified that the tenant causes disturbances on a regular basis that require the police to attend. The landlord testified that the tenant has threatened other tenants and is hollering and screaming at all hours of the night. The landlord seeks an early end of the tenancy and an order of possession.

Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause. In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the tenant has done any of the following:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;*
- *seriously jeopardized the health or safety or a lawful right or interests of the landlord or another occupant.*
- *put the landlord's property at significant risk;*
- *engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;*
- *engaged in illegal activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property;*
- *engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*
- *caused extraordinary damage to the residential property,*

and

it would be unreasonable, or unfair to the landlord, the tenant or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 [landlord's notice: cause]... to take effect.

In this case, the landlord has issued a 10 Day Notice for unpaid rent; he has not issued any 1 Month Notice for Cause pursuant to section 47 of the *Act*. His primary reason for believing that he was entitled to an early end to this tenancy was because the tenant had failed to pay his rent for the past six months. The landlord testified that the tenant was a nuisance and a disturbance to the park and other tenants, however; he continually returned to the issue of unpaid rent. This is not a valid reason for obtaining an early end to a tenancy.

As outlined above, the landlord's application for dispute resolution did mention additional reasons for obtaining an early end to this tenancy in the application for dispute resolution. The reasons cited in the landlord's application would need to be supported by sworn testimony and/or written, photographic or video evidence in order to

qualify for the first part of section 55 of the *Act*. The landlord's sworn testimony centered on the non-payment of rent.

As noted above, the landlord has not issued any notice to end tenancy for cause pursuant to section 47 of the *Act*. This would be the usual first step for a landlord seeking an early end to tenancy. Rather than issuing any 1 Month Notice for Cause, the landlord in this case said that he was attempting to obtain an early end to tenancy because the tenant has not paid rent.

Separate from whether there exist reasons that would enable a landlord to obtain an Order of Possession for Cause, the second part of section 56 of the *Act* as outlined above would only allow me to issue an early end to tenancy if I were satisfied that it would be unreasonable or unfair to the landlord to wait until an application to end the tenancy for cause were considered. In this case, I find that the landlord's application falls well short of the requirements outlined in section 56 of the *Act*. An early end to tenancy is to be used only in situations where there is a compelling reason to address the dispute very quickly and when circumstances indicate that the standard process for obtaining an Order of Possession following the issuance of a 1 Month Notice for Cause would be unreasonable or unfair. I emphasize that failure to pay rent on time does not qualify for the issuance of an early end to tenancy. For these reasons, I dismiss the landlord's application for an early end to this tenancy.

As the landlord has been unsuccessful in this application, I dismiss the landlord's application to obtain the recovery of his filing fee from the tenant.

Conclusion

The landlord's application is dismissed.

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: January 20, 2020