



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC, FFT

Introduction

This hearing was scheduled for 11:00 a.m. on this date to deal with a tenant's application to cancel a One Month Notice to End Tenancy for Cause ("1 Month Notice") and orders for the landlord to comply with the Act, regulations or tenancy agreement.

The tenants appeared for the hearing; however, there was no appearance on part of the landlords. Since the landlords did not appear, I explored service of hearing documents upon the landlords.

The tenants testified that the landlord referred to by initials SD was served with their proceeding package, in person, in front of the subject manufactured home site.

The tenants testified the landlord referred to by initials RS was served with the proceeding package by registered mail sent on October 2, 2020 and additional materials were sent by registered mail on November 10, 2020. The address used to send the registered mail to RS was the service address for RS that was provided on the 1 Month Notice. I noted that I did not have the first page of the 1 Month Notice before me and I asked the tenant to read it into evidence, which she did. I noted that the landlord's service address she read aloud was the same as the service address provided on the tenant's Application for Dispute Resolution. A search of the registered mail tracking numbers showed the packages were successfully delivered in the same City as the landlord's service address appearing on the 1 Month Notice.

I was satisfied the landlords were duly served with notification of this proceeding and I continued to hear from the tenants without the landlord present.

The tenants identified the status of the tenancy as being the primary issue to resolve during this proceeding and they requested withdrawal of their request for Orders for

compliance, with the right to reapply. The tenant's request was granted and the tenants may make another Application for Dispute Resolution seeking orders for compliance or any other available remedy.

I proceed to consider the tenants' request for cancellation of the 1 Month Notice.

Issue(s) to be Decided

1. Should the 1 Month Notice be cancelled or upheld?
2. Award of the filing fee.

Background and Evidence

The tenants received a One Month Notice to End Tenancy for Cause signed by the park manager on September 24, 2020 with a stated effective date of October 24, 2020. The tenants filed to dispute the One Month Notice within 10 days of receiving it.

Despite finding the landlords duly served with notification of this proceeding, the landlord did not provide evidence in support of ending the tenancy either by way of evidence submitted prior to the hearing; nor, did the landlord(s) appear to present evidence during the hearing.

Analysis

Where a notice to end tenancy comes under dispute, the landlord bears the burden to prove the tenancy should end for the reason(s) indicated on the Notice.

With respect to burden of proof, Rule 6.6 of the Rules of Procedure provides, in part: "...the landlord must prove the reason they wish to end the tenancy when the tenant applies to cancel a Notice to End Tenancy."

In the absence of any submissions or evidence from the landlord to demonstrate the tenancy should end for the reasons provided on the 1 Month Notice, I grant the tenants' application and I cancel the 1 Month Notice dated September 24, 2020 with the effect that the tenancy continues.

Since the tenants were successful in this application, I award the tenants recovery of the \$100.00 filing fee they paid for this application. I provide the tenants with a

Monetary Order in the amount of \$100.00 and the tenants are authorized to withhold \$100.00 from a subsequent month's rent payment to satisfy this Monetary Order.

Conclusion

The 1 Month Notice has been cancelled and the tenancy continues at this time.

The tenants' requests for Orders for compliance were withdrawn, and leave to reapply was granted.

The tenants are awarded recovery of the \$100.00 filing fee and are provided a Monetary Order in the amount of \$100.00. The tenants are authorized to withhold \$100.00 from a subsequent month's rent payment to satisfy this Monetary Order.

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: December 03, 2020

Residential Tenancy Branch