Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes   CNC, FFT

Introduction

This hearing was convened in response to an application by the **Tenants** pursuant to the *Manufactured Home Park Tenancy Act* (the "Act") for Orders as follows:

1. An Order cancelling a notice to end tenancy - Section 40; and
2. An Order to recover the filing fee for this application - Section 65.

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions. The Parties confirmed receipt of each other's evidence packages. The Parties confirm that there are two notices to end tenancy for cause that are being disputed.

Issue(s) to be Decided

Are the notices to end tenancy effective?

Are the Tenants entitled to a cancellation of the notices to end tenancy?

Are the Tenants entitled to recovery of the filing fee?

Background and Evidence

The following are agreed facts: Rent of $300.00 is payable on the first day of each month.

The Landlord does not know when the tenancy started and that they purchased the home park in 2000. The Tenant states that the tenancy started in 1997.

The Landlord states that the Tenants were served with a one month notice to end tenancy for cause dated November 2, 2021 (the "November Notice"). The Landlord states that the Tenants were served all pages of the November Notice in person. The Landlord states that this service was witnessed but that no proof of service was provided and signed by the witness. The Landlord confirms that the effective date of the November Notice is December 2, 2022. The Landlord confirms this effective date twice. The Tenant states that they only received the first page of the November Notice. It is noted that there are no reasons for the November Notice on the first page.

The Landlord states that the Tenants were again served with another one month notice to end tenancy for cause dated December 2, 2021 (the "December Notice"). The Landlord confirms that the effective date set out on the December Notice is May 30, 2022. It is noted that the December Notice is on a form dated 2005.

Analysis

Section 45 of the Act provides that in order to be effective a notice to end a tenancy must be in writing and inter alia, must state the grounds for ending the tenancy and when given by a landlord, be in the approved form. As the Landlord provided no supporting evidence of the service of all pages of the November Notice, given the Tenant's evidence that only the first page of the November Notice was received, I find on a balance of probabilities that the Tenants were not given all pages of the November Notice. As the first page of the November Notice does not contain any grounds to end the tenancy, I find that that the November Notice is not effective to end the tenancy. Given the Landlord's evidence of the form of the December Notice and as this is a very dated form and not the recent and approved form, I find that the Landlord has not served the December Notice in the approved form. For this reason, I find that the December Notice is not effective to end the tenancy. As neither notice to end tenancy is effective to end the tenancy, I find that the Tenants are entitled to a cancellation of both notices and the tenancy continues.

As the Tenants have been successful with their claim, I find that the Tenants are entitled to recovery of the **$100.00** filing fee and the Tenants may deduct this amount from future rent payable in full satisfaction of this claim.

Conclusion

The notices to end tenancy are not effective to end the tenancy and are cancelled. The tenancy continues.

I grant the Tenants an order under Section 67 of the Act for **$100.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

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: February 11, 2022

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Residential Tenancy Branch