



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, RP

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenants on October 08, 2021 (the “Application”). The Tenants applied as follows:

- To dispute a One Month Notice to End Tenancy for Cause dated September 27, 2021 (the “Notice”)
- For a repair order

The Landlord appeared at the hearing. Nobody appeared at the hearing for the Tenants. The hearing proceeded for 16 minutes and nobody called into the hearing for the Tenants during this time.

The Landlord is seeking an Order of Possession based on the Notice.

I explained the hearing process to the Landlord. I told the Landlord they are not allowed to record the hearing pursuant to the Rules of Procedure (the “Rules”). The Landlord provided affirmed testimony.

The Tenant submitted the Notice prior to the hearing. The Landlord submitted evidence prior to the hearing. The Landlord confirmed receipt of the hearing package. The Landlord testified that their evidence was sent to the Tenants at the site by registered mail on January 10, 2022 and that Tracking Number 476 relates to this. I looked Tracking Number 476 up on the Canada Post website which shows the package was delivered January 18, 2022.

Based on the undisputed testimony of the Landlord and Canada Post tracking information, I am satisfied the Tenants were served with the Landlord's evidence in accordance with section 81(c) of the *Manufactured Home Park Tenancy Act* (the "Act"). Based on the Canada Post tracking information, I find the Tenants received the Landlord's evidence January 18, 2022. I also find the Landlord complied with rule 3.15 of the Rules in relation to the timing of service.

I proceeded with the hearing in the absence of the Tenants. The Landlord was given an opportunity to present relevant evidence and make relevant submissions. I have considered the documentary evidence and testimony of the Landlord. I will only refer to the evidence I find relevant in this decision.

Issues to be Decided

1. Is the Landlord entitled to an Order of Possession based on the Notice?

Background and Evidence

A written tenancy agreement was submitted. The tenancy started November 01, 2019 and is a month-to-month tenancy. Rent is due on the first day of each month.

The Notice was submitted. The Notice is addressed to the Tenants and relates to the rental site. The Notice is signed and dated by the Landlord. The Notice has an effective date of October 31, 2021. The grounds for the Notice are:

1. Tenant or a person permitted on the property by the Tenant has put the Landlord's property at significant risk.
2. Tenant or a person permitted on the property by the Tenant has caused extraordinary damage to the site or park.
3. Tenant has not done required repairs of damage to the site or park.
4. Breach of a material term.

The Details of Cause section of the Notice states:

Tenant is in violation of material term of tenancy contract and has had written notices which have not been complied with.

Landlord has given written notices which have not been complied with. Landlord has sent requests for compliance by registered mail which [Tenant] said he did not have time to pick it up as he only golfs and spends his time at home. [Tenant] then accused Landlord of not doing his landscaping of the lot.

Tenants have a lot of junk in their yard and the yard is unsightly, and they have unlicensed/uninsured vehicle parked in his yard where he should have lawn. Tenant has not made any attempt to meet the park standards which exist on the other lots. This tenant has affected every other tenants values of their homes due to their disregard for the park rules and the contract they signed, and the warning letters from the Landlord for over a year.

This is an unacceptable tenancy.

The Landlord testified that the Notice was posted to the Tenants' door September 29, 2021.

The Landlord testified that the Tenants have put the Landlord's property at significant risk, caused extraordinary damage to the site or park, failed to do required repairs of damage to the site or park and breached a material term of the tenancy agreement.

The Landlord submitted the following documentary evidence:

- Photos
- Correspondence between the parties
- Correspondence about the tenancy
- Written submissions
- The Notice
- An email confirming service of the Notice
- The tenancy agreement
- Documents relating to building permits and codes

Analysis

Rule 7.3 of the Rules states:

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 Tenants did not appear at the hearing and therefore I dismiss the Application without leave to re-apply pursuant to rule 7.3 of the Rules.

I still must consider the validity of the Notice because the Landlord has the onus to prove the Notice pursuant to rule 6.6 of the Rules.

The Notice was issued pursuant to section 40(1) of the *Act* and the following subsections:

40 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies...

(c) the tenant or a person permitted in the manufactured home park by the tenant has...

(iii) put the landlord's property at significant risk...

(e) the tenant or a person permitted in the manufactured home park by the tenant has caused extraordinary damage to a manufactured home site or the manufactured home park;

(f) the tenant does not repair damage to the manufactured home site, as required under section 26 (3) [obligations to repair and maintain], within a reasonable time;

(g) the tenant

(i) has failed to comply with a material term, and

- (ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;

The Tenants had 10 days from receipt of the Notice to dispute it pursuant to section 40(4) of the *Act*.

Based on the undisputed testimony of the Landlord and documentary evidence, I accept that the Notice was posted to the Tenants' door September 29, 2021 in accordance with section 81(g) of the *Act*. Pursuant to section 83(c) of the *Act*, the Tenants are deemed to have received the Notice October 02, 2021. The Application was filed October 08, 2021, within time.

Based on the undisputed testimony of the Landlord and documentary evidence, I accept that the Tenants have put the Landlord's property at significant risk, caused extraordinary damage to the site or park, failed to do required repairs of damage to the site or park and breached a material term of the tenancy agreement. Therefore, I accept that the Landlord had grounds to issue the Notice.

I have reviewed the Notice and find it complies in form and content with section 45 of the *Act* as required by section 40(3) of the *Act*.

Given the Landlord had grounds to issue the Notice and the Notice complies with section 45 of the *Act*, I find the Notice is valid and uphold the Notice.

Section 48(1) of the *Act* states:

48 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the manufactured home site if

- (a) the landlord's notice to end tenancy complies with section 45 [form and content of notice to end tenancy], and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

Given my findings above, the Landlord is entitled to an Order of Possession pursuant to section 48(1) of the *Act* and is issued an Order of Possession effective two days after service on the Tenants.

Conclusion

The Landlord is issued an Order of Possession effective two days after service on the Tenants. The Order must be served on the Tenants. If the Tenants do not comply with the Order, it may be filed in the Supreme 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 18, 2022

Residential Tenancy Branch