



DECISION

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution under the *Manufactured Home Park Tenancy Act* (the Act) for cancellation of the One Month Notice to End Tenancy for Cause (the Notice) under section 40 of the Act.

Tenants AH and WH (the Tenants) and the landlord's representative WK (the Landlord) attended the hearing.

Service of Notice of Dispute Resolution Proceeding and the Evidence (Proceeding Package)

The Landlord confirmed receipt of the Proceeding Package and the Evidence and that he had enough time to review it.

Based on the testimony, I find the Tenants served the Proceeding Package and the Evidence in accordance with section 82(1) of the Act.

Service of the Response Evidence

The Landlord affirmed he emailed the response evidence to the Tenants on January 11, 2025 because he only learned of these documents on January 9.

The hearing was on January 16, 2025.

Rule of Procedure 3.15 requires the respondent, in this case the Landlord, to serve the response evidence not less than 7 days before the hearing.

Rule 3.17 states the parties can seek an adjournment for new evidence. However, the Landlord's evidence consists of 3 pages containing some print screens undated, and one dated January 18.

I excluded the response evidence from consideration, as the Landlord only served it on January 11, and could have served on January 9, in accordance with Rule of Procedure 3.15.

Preliminary Matter

At the outset of the hearing tenant WD corrected the spelling of his last name.

Pursuant to section 57(3)(c) of the Act, I have amended the application. WD's correct last name is recorded on the cover page of this decision.

Issues to be Decided

Section 48(1) of the Act requires that when a tenant submits an application for dispute resolution seeking to cancel a notice to end tenancy issued by a landlord under section 40 of the Act, I must consider if the landlord is entitled to an order of possession if the application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the Act.

Should the Notice be cancelled? If not, is the Landlord entitled to an Order of Possession?

Background and Evidence

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

Both parties agreed the Landlord served and the Tenants received the Notice on December 11, 2024. The Tenants disputed the Notice on December 12 and continue to occupy the site.

The Tenants submitted the Notice into evidence. It is dated December 11, 2024 and the reason to end the tenancy is "Non-compliance with an order under the legislation within 30 days after the tenant received the order or the date in the order." The section of the Notice named 'Details of the events' is not completed.

The Landlord served the Notice without a letter or any document further explaining the reason to end the tenancy.

The Landlord affirmed he did not provide details because the Notice is due to the non-compliance with a decision dated April 5, 2024 and the Tenants are aware of this decision.

The Tenants stated the alleged reasons were analyzed in a prior decision issued by the RTB and the Landlord is seeking to terminate the tenancy for the same reasons.

Analysis

Pursuant to Rule of Procedure 6.6, the standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The Landlord has the onus of proof to establish that the Notice is valid.

Notice

I accept the uncontested testimony the Landlord served the Notice on December 11, 2024, the Tenants received it on the same day and continue to occupy the site.

Section 40 of the Act says that notices to end tenancy for cause must comply with section 45 of the Act.

Section 45(d) states that notices to end tenancy must state the grounds for ending the tenancy.

I find the Notice does not comply with section 45(d) of the Act, as there are no details of the order the Tenants allegedly did not comply. A notice to end tenancy must provide all the necessary information for tenants to understand the reasons for the eviction.

As the Notice does not comply with section 45 of the Act, I find it is not effective and I cancel it. The tenancy continues as is.

I am not making any findings about the merits of the Notice. The Landlord is at liberty to serve a new notice to end tenancy for the same alleged reasons. However, I caution the Landlord that once the merits of a notice to end tenancy have been adjudicated, the Landlord can only serve a new notice if there are new facts.

I also caution the Landlord that serving multiple notices to end tenancy that are cancelled may breach the Tenants' right of quiet enjoyment, and this may be ground for monetary compensation.

Filing fee

At the end of the hearing, the Tenants requested to recover the \$100.00 filing fee.

The Tenants submitted the application by signing the form RTB12T on December 11, 2024. This form does not indicate the Tenants requested to recover the filing fee. However, the Tenants submitted an updated form on December 12 requesting the recovery of the filing fee.

As the Notice of Dispute Resolution Proceeding does not mention the Tenants requested the recovery of the filing fee, the RTB will refund it to the Tenants.

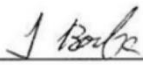
Conclusion

The Notice is cancelled and of no force or effect. This tenancy continues until it is ended in accordance with the Act.

The RTB will refund the \$100.00 filing fee to the Tenants.

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: January 20, 2025



I Borba, Arbitrator
Residential Tenancy Branch