

DECISION

Dispute Codes ET, FF

Introduction

This matter dealt with an application by the Landlord for an order ending the tenancy earlier than it would end if required to serve the Tenants with a One Month Notice to End Tenancy for Cause and wait for the applicable notice period to elapse. The Landlord also applied to recover the filing fee for this proceeding.

The Landlord's application included the Tenant's daughter as a party to these proceedings. I find, however, that the Tenant's daughter was not a party to the tenancy agreement and as a result the style of cause has been amended to remove her as a tenant.

Issues(s) to be Decided

1. Is the Landlord entitled to end the tenancy?

Background and Evidence

This tenancy started on April 1, 2005. The Landlord said the Tenant (or his daughter) had a party on March 28, 2009 which was very noisy and resulted in written complaints from 2 other tenants of the manufactured home park. The Landlord claimed that the police attended the Tenant's residence to quiet things down but once they left, the party got loud again and the park managers put an end to it around midnight. The Landlord also claimed that the Tenant's guests sped through the manufactured park and drove over a grassed area causing some minor damage.

The Landlord said that the Tenant had had previous parties that had disrupted other tenants but he could not recall when and he had no other written complaints. The Landlord argued that he was worried that if the Tenant had more parties of this nature in the future, other occupants of the park could be hurt by speeding vehicles.

The Landlord also claimed that the Tenant had a vicious dog and that he had failed to obtain the Landlord's permission to have it. The Landlord said he was concerned that he could be held liable if the dog attacked anyone on the manufactured home park property and he wanted it removed. The Landlord admitted that he had known for approximately a year about the letter from Kimberley Animal Control requiring the

Tenant to keep his dog confined or leashed and had done nothing about it until now. The Landlord admitted that his managers sent the Tenant a letter dated March 29, 2009 advising him that the dog could stay provided it was leashed and muzzled or kept in an enclosed area.

The Landlord also claimed that the Tenant had agreed to complete renovations to his manufactured home within a year's time. The Landlord said that after 2 years the Tenant had still not completed the renovations and had failed to clean up the building materials and other debris from his back yard. The Landlord argued that the Tenant's new construction might not be fit for habitation as he had not received a final building inspection yet. The Landlord said he was concerned about his liability if the construction was not done properly.

The Tenant admitted that the party was loud but claimed that everyone had left by midnight and that he ensured no cans or other debris was left on the park property. The Tenant claimed that a number of the guests at the party were other residents of the manufactured home park. The Tenant also claimed that each of the guests had a designated driver so that no one was driving intoxicated. The Tenant argued that there was no damage to the grass in the common area and claimed that the photographs of tire tracks in grass relied on by the Landlord were caused when he removed a trailer load of scrap wood from his back yard.

The Tenant also admitted that his dog "nipped" a postal worker in 2005 when it was a puppy. The Tenant denied that the dog (a 15" high Poodle cross) was vicious but claimed that he took the dog to work with him each day and that when he was at his residence, the dog was either inside or chained up outside. The Tenant admitted that the dog had escaped on one occasion and was picked up by the Kimberley Animal Control. The Tenant claimed that there had been no complaints by other residents about his dog and that his neighbours often approached the dog to pet it.

The Tenant also admitted that renovations to his manufactured home had taken longer than anticipated because the original contractor had left the job and he had difficulty finding a replacement and some specialty windows. The Tenant claimed that he had a building permit and that an electrical inspection had been completed. The Tenant said that he had removed some materials from the back yard but argued that the Landlord gave him permission to keep some firewood in the back yard.

Analysis

In order to end a tenancy under section 49 of the Act, a Landlord must show that the Tenant has engaged in conduct that falls within one or more of the enumerated grounds

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of that section **and** that it would be unreasonable or unfair to the landlord or other occupants of the manufactured home park to wait for a notice to end the tenancy under s. 40 to take effect. In other words, this is a remedy that is granted only when there is imminent and significant danger or risk of danger to other residents or the rental property.

In this case, I find that there is no evidence of an imminent and serious risk of danger to other residents or the manufactured home property. While the Tenant's loud party on March 28, 2009 disturbed at least 2 other residents, there is insufficient evidence that his guests threatened the safety of any other residents. The only evidence relied on by the Landlord was from a witness statement in which the person said they believed the Tenant's guests were "not doing the speed limit." Furthermore, I find there is no evidence of property damage from someone driving on the grassed area as alleged.

Similarly, while there is evidence that the Tenant's dog bit a mail carrier 4 years ago in a single incident, there is no evidence that the dog poses a present threat to anyone in the manufactured home park (provided the Tenant complies with the Animal Control requirements). Furthermore, the Tenant provided statements from a number of previous park managers who claim that the Tenant got the permission of the Landlord to have this dog a number of years ago.

With respect to the Tenant's failure to complete repairs, I find that this does not fall within one of the required grounds under s. 49. In particular, I find that the Tenant's failure to complete the construction may be a nuisance but there is no evidence that it is a threat to anyone's safety. Consequently, I find there is insufficient evidence to support the Landlord's application for an order that the tenancy be ended early and it is dismissed.

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 *Residential Tenancy Act*.

Dated: May 11, 2009.

Dispute Resolution Officer