

Decision

Dispute Codes: CNC, FF

Introduction

This hearing dealt with an application from the tenant for cancellation of the landlord's 1 month notice to end tenancy for cause, and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

Issues to be decided

- Whether the tenant is entitled to either or both of the above under the Act

Background and Evidence

Pursuant to a written tenancy agreement, the month-to-month tenancy began in December 2006. Currently, pad rental is \$440.00 per month. Neither a security deposit nor a pet damage deposit were collected. After tenant "DH Senior" vacated the manufactured home in June 2009, tenant "DH Junior" and his girlfriend became the principal residents.

Arising from a variety of concerns about the conduct of Tenant "DH Junior" and / or persons permitted on the property by him, the landlord issued a 1 month notice to end tenancy for cause dated September 28, 2009. Reasons shown on the notice for its issuance are as follows:

Tenant has allowed an unreasonable number of occupants in the unit / site

Tenant or a person permitted on the property by the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord

Tenant has engaged in illegal activity that has, or is likely to:

- adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so

Subsequent to service of the above notice, after being persuaded that tenant "DH Senior" and tenant "DH Junior" both understood the landlord's concerns and were prepared to take action to remedy them, the landlord set aside the notice.

However, with the passage of time the landlord again became concerned about the tenancy and served a second 1 month notice to end tenancy for cause, this one dated November 26, 2009. Reasons shown on the notice for its issuance are identical to the reasons shown on the previous notice.

During the hearing, agents for the landlord confirmed that the landlord's concerns arise principally in relation to the conduct and behavior of tenant "DH Junior" and persons permitted on the property by him. Tenant "DH Junior," however, was not present at the hearing. Concerns include, but are not limited to, frequent use of coarse language, loud music, use of marijuana, and the routinely noisy comings & goings of visitors. Over time, police have been called to respond to some of these concerns.

During the hearing the parties exchanged views on some of the circumstances surrounding the dispute and undertook to achieve a resolution.

Analysis

Section 56 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a tentative resolution. Specifically, it was agreed as follows:

- that the assistant to tenant's counsel will contact landlord's agent "JS-P" by no later than midnight, Friday, January 2010;

- that, between them, the assistant to tenant's counsel and landlord's agent "JS-P" will undertake to arrange a meeting time which accommodates the scheduling requirements of all parties to this dispute;
- that the above meeting will include all participants in today's hearing in addition to tenant "DH Junior;"
- that the parties will undertake to conduct the above meeting prior to January 31, 2010;
- that tenant's counsel will provide a meeting room to accommodate the above gathering;
- that the landlord will set aside the 1 month notice to end tenancy for cause dated November 26, 2009.

As the parties negotiated between them a tentative resolution of the dispute, I find that the tenant is entitled to recover half the \$50.00 filing fee in the amount of \$25.00. Accordingly, I order that the tenant may withhold \$25.00 from the next regular payment of monthly rent.

In the meantime, the attention of the parties is drawn to section 22 of the Act which speaks to **Protection of tenant's right to quiet enjoyment**, and provides as follows:

22 A tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

- (a) reasonable privacy;
- (b) freedom from unreasonable disturbance;
- (c) exclusive possession of the manufactured home site subject only to the landlord's right to enter the manufactured home site in accordance

with section 23 [*landlord's right to enter manufactured home site restricted*];

(d) use of common areas for reasonable and lawful purposes, free from significant interference.

Further, attention is drawn to Residential Tenancy Policy Guideline # 6: Right to Quiet Enjoyment. The full text of the Act, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca/

Conclusion

Following from all of the above, I hereby cancel the landlord's 1 month notice to end tenancy for cause, with the effect that the tenancy continues in full force and effect.

I hereby order that the tenant may withhold **\$25.00** from the next regular payment of monthly rent in order to recover half the filing fee.

DATE: January 5, 2010

Dispute Resolution Officer