



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes Landlord: OPC, OPB, MND, FF
Tenant: CNC, MNDC, AAT, RR

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for damages to the manufactured home site as well as to recover the filing fee for this proceeding. The Tenant applied to cancel a One Month Notice to End Tenancy for Cause, for an Order allowing the Tenant or his guests access to the site, for a rent reduction and for compensation for damage or loss under the Act or tenancy agreement.

RTB Rule of Procedure 2.3 states that “if in the course of the dispute resolution proceeding, the Dispute Resolution Officer determines that it is appropriate to do so, the Dispute Resolution Officer may dismiss unrelated disputes contained in a single application with or without leave to reapply.” I find that the Tenant’s applications for compensation and for a rent reduction are not sufficiently related to his application to cancel a Notice to End Tenancy and as a result, they are dismissed with leave to reapply. I also find that the Landlord’s application for compensation for repairs is premature and it is dismissed with leave to reapply.

The Landlord’s application named another party, A.[S.] C., as a tenant, however, she was not named in the Parties’ tenancy agreement as a tenant and I find it was not the intention of the Landlord and the Tenant, C.J.S., for her to be a tenant. Consequently, I find that A.C. is not properly named as a party in these proceedings and the style of cause is amended by removing A.C. as a party.

Issue(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

Background and Evidence

The manufactured home site is located on a two acre parcel of land on which the Landlord’s residence is also situated. This month-to-month tenancy started on October 29, 2011. Both Parties provided a copy of a tenancy agreement dated October 22, 2011; the Tenant’s copy does not have the Landlord’s signature however the Landlord’s copy has both parties’ signatures. Rent is \$475.00 per month payable in

advance on the 1st day of each month. The tenancy agreement states that rent includes water, electricity (up to a maximum of \$50.00 per month) and parking for one vehicle.

The Parties' tenancy agreement also contains a term that the Tenant is permitted to have on the property in addition to his 21 foot, 5th wheel RV trailer, two sheds that are 8 x 8 feet and 5 x 5 feet in size respectively. The tenancy agreement contains a further term that the manufactured home site must be kept tidy and free of "junk." On or about November 1, 2011, the Tenant moved his RV and 2 sheds onto the rental property. Around midnight on November 1, 2011, the Tenant also brought a 24 foot cube van onto the property which contained more of his belongings.

The Landlord said she was surprised to hear the sound of a large truck coming into the property late at night and went out to investigate. The Landlord said the Tenant advised her that it contained skirting for his RV however the Landlord asked the Tenant to show her what was in the truck and he did so. The Landlord said the truck was loaded with miscellaneous items that she referred to as "junk." The Landlord said she was upset that the Tenant had brought this load of items onto the property because the two sheds were inadequate to store all of it. The Landlord said the Tenant then became verbally abusive with her so she went back to her residence and contacted her neighbour. The Tenant denied that he was threatening or abusive.

The following morning, the Parties' met to discuss the Tenant's intentions with respect to his truck load of articles. The Landlord's neighbour, K.H., was also in attendance. At that time, the Landlord pointed out the terms of the tenancy agreement requiring the Tenant to keep the property tidy and advised him that he could not have piles of objects lying around. The Landlord said she agreed to give the Tenant two days to remove his articles. The Landlord claimed however that later the same day, she observed the Tenant unloading the contents of the truck. The Landlord said she approached the Tenant and asked him to stop unloading the truck and to take his belongings to storage but he became angry, threw some metal bars in her direction and told her that he would call the police. The Landlord said she was afraid of the Tenant and contacted the police who later attended the rental property and spoke to the Tenant who refused to stop unloading.

Consequently, the Landlord said on November 4, 2011 she served the Tenant's spouse in person with the One Month Notice to End Tenancy for Cause. The grounds alleged on the Notice were as follows:

- The Tenant or a person permitted on the property by the Tenant has:
 - Significantly interfered with or unreasonably disturbed another occupant or the landlord;
 - Seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
- Tenant has caused extraordinary damage to the unit/site or property/park.

The Landlord said that when the moving van came into the property, it left deep ruts in the driveway and drove over a stone planter dislodging some large rocks. The Landlord also claimed that the moving van drove over the section of the site containing the septic, water and electrical lines and other services and left a sink hole. The Landlord said she did not know yet if there are any damages to the underground service lines as she has not dug them up to inspect them. The Landlord said that when the Tenant removed his articles from the moving van, his sheds were already full so he left the articles piled up under tarps and she provided photographs of them. The Tenant claimed that he replaced the rocks and repaired the ruts in the driveway. The Tenant argued that the sink hole only occurred because the manufactured home site was not installed under permit and therefore may not have been backfilled and compacted properly.

The Landlord said she feels the Tenant had taken advantage of her, has left the property in an unsightly manner, is refusing to remove his belongings and is threatening and abusive to her. The Landlord said that on two occasions when the Tenant has served her with documents, he began filming her, waving his cane at her and shouting "you've been served." The Landlord said the Tenant has also attended her workplace on three occasions since she served him with the One Month Notice and complained to her supervisor(s) about the Landlord's alleged conduct in this matter.

The Tenant argued that the tenancy agreement was not effective because his copy was not signed by the Landlord. The Tenant argued in the alternative that if the tenancy agreement was signed by the Landlord then it was not effective because it was on a "Residential Tenancy" form of tenancy agreement. The Tenant did not dispute that it was a term of the tenancy agreement that he was allowed two sheds and that he would keep the property tidy and free of "junk." The Tenant said he had to unload the moving van because it was rented and had to return it. The Tenant claimed that he has removed a few belongings from the property and that the rest of his belongings would fit in his two sheds and under his RV (concealed by skirting). The Tenant claimed that he has not done so to date because he is physically unable to do so by himself and cannot afford to hire someone to assist him. The Landlord and her witness claimed that they have seen inside the sheds and they are already full.

The Tenant denied that he has been verbally abusive or threatening to the Landlord. The Tenant said he only attended the Landlord's workplace out of concern that she worked for a public agency which also deals with his son. The Tenant admitted, however that he was advised by the Landlord's supervisor that the dispute was not relevant to the Landlord's employment.

Analysis

Although the Tenant argued that the written tenancy agreement was not effective because it was unsigned by the Landlord, I find that this is not the case. In particular, I find that the tenancy agreement was signed by the Landlord on or about October 22,

2011. I also find that the fact that the tenancy agreement was set out on a Residential Tenancy form of tenancy agreement does not invalidate it. Consequently, I find that the tenancy agreement signed by the Parties on October 22, 2011 is an enforceable agreement with the exception of the provision wherein the Tenant was required to give 60 day's notice to vacate and to pay a security deposit. Section 17(2) of the Act says that a Landlord must not require or accept a security deposit in respect of a manufactured home site tenancy. As a result, ***I order the Landlord pursuant to s. 55(3) of the Act to return the Tenant's security deposit of \$237.50 to him immediately.***

I find that there is little evidence to support the ground that the Tenant has caused extraordinary damage to the rental property. In particular, I do not find that ruts in the gravel driveway or displaced rocks from the garden constitute "extraordinary damage." Furthermore, I find that there is no evidence at this time that the Tenant damaged any service lines by driving over them.

I find that it is a term of the Parties' tenancy agreement that the Tenant is permitted to have his 5th wheel trailer plus 2 outbuildings for storage and is also required to keep the property tidy and free of "junk." Although the Tenant argued that all of his belongings that are currently stored under tarps on the rental property will fit into the 2 small sheds and under the RV, I find this unlikely given the substantial amount of belongings (seen in the Landlord's photographs) and the limited space provided by the sheds and under the RV. Where the evidence of the Parties regarding whether the sheds are already full or not is concerned, I prefer the evidence of the Landlord. I found the Tenant's evidence to be evasive on this point especially as to why his articles were still exposed to the elements as opposed to the Landlord's which was that the sheds are already full which was corroborated by her witness. Based on the photographs of the Landlord, I find it unlikely that the Tenant has a place to store his many belongings other than where they presently lie, scattered about the manufactured home site in many piles with some covered by tarps. The Tenant claimed at the hearing that he could not afford to put his belongings in storage and as a result, I find that he has no intention of removing his items from the rental property.

I find that the Tenant's refusal to remove his belongings from the rental property is unreasonable and contravenes the Parties' agreement. The articles as they presently lie strewn about on the property are an eyesore. I also find that the Landlord's reasonable requests that the Tenant remove his belongings has been met with hostility and anger from the Tenant who in retaliation, sought for example, to interfere with the Landlord's employment by making a complaint about her to her supervisor at her workplace. (I note that the Tenant's actions relating to the Landlord's employment occurred after he was served with the One Month Notice and therefore, I do not consider those instances when determining if there are grounds for the Notice.) In essence, I find that the Tenant's refusal to abide by the terms of the tenancy agreement and subsequent angry outbursts at the Landlord's requests to comply with it have significantly interfered with and unreasonably disturbed the Landlord (who also resides

on the rental property). Consequently, I find that these circumstances constitute grounds for ending the tenancy and the Tenant's application to cancel the One Month Notice to End Tenancy for Cause dated November 4, 2011 is dismissed without leave to reapply.

I find that the effective date on the One Month Notice is incorrect and must be amended pursuant to s. 46 of the Act to show an effective date of December 31, 2011.

Conclusion

The Tenant's application to cancel the One Month Notice to End Tenancy for Cause dated November 4, 2011 and for access to the rental property is dismissed without leave to reapply. The Tenant's applications for a rent reduction and compensation are dismissed with leave to reapply.

An Order of Possession effective December 31, 2011 and a Monetary Order in the amount of \$50.00 have been issued to the Landlord. A copy of the Orders must be served on the Tenant; the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court. The Landlord's application for compensation for damages to the rental property is dismissed with leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: December 05, 2011.

Residential Tenancy Branch