



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

For the tenant: CNC
For the landlord: OPC OPB

Introduction

This hearing was convened as a result of the cross applications of the parties for dispute resolution under the *Manufactured Home Park Tenancy Act* (the “Act”).

The tenant applied to cancel a Notice to End Tenancy for Cause. The landlord applied for an order of possession for cause and an order of possession due to the tenant breaching an agreement with the landlord.

The hearing process was explained to the parties and an opportunity was given to ask questions about the hearing process. Thereafter the parties gave affirmed testimony, were provided the opportunity to present their evidence orally and in documentary form prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Both parties confirmed receiving the evidence from the other party and that they had a chance to review the evidence prior to the hearing.

Preliminary Matters

The agent for the tenant has been living on the rental site for approximately the past five years. The tenant did not attend the hearing, however, the tenant’s agent, her son, did appear and represented the tenant during the hearing.

Issues to be Decided

- Should the 1 Month Notice To End Tenancy for Cause be cancelled?
- Is the landlord entitled to an order of possession for cause?

Background and Evidence

The tenancy commenced in 2001. Originally, site rent in the amount of \$165.00 was due on the first of the month, and has been increased over the course of the tenancy to the present amount of \$200.00 per month.

The landlord testified that the tenant was served with a 1 Month Notice to End Tenancy for Cause (the "Notice") on July 30, 2012 via personal service. The effective date on the Notice stated September 1, 2012, which corrects automatically under the *Act* to August 31, 2012.

The Notice from the landlord indicates that the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord, has not done the required repairs to the unit/site or property/park, and the tenant has breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord presented documentary evidence from witnesses in support of the landlord's claim that the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord. The evidence consisted of three letters from neighbours of the tenant.

The first letter from neighbour JT, alleges that a man standing at the rental site had an altercation with young boys. The landlord confirmed during the hearing that neighbour JT did not actually confirm that the man was the agent for the tenant, DB.

The second letter from neighbour FG, alleges that he and his wife have lived at the mobile home park for 18 years and that of those 18 years, this year has been the worst year for them yet. The letter specifically refers to DB (the agent for the tenant), and alleges that DB has been making all kinds of trouble for the couple and other residents of the park. Neighbour FG explains in this letter that DB plays his music loudly at 3:00 a.m. and keeps the couple awake at night and that he has called the police twice to report this. On November 14, neighbour FG alleges that DB installed a wood stove that blows smoke to the neighbours home and makes it very hard to breathe. Neighbour FG states that his wife has cancer and is on oxygen and cannot breathe in any kind of smoke. On May 8 at 10:30 p.m., neighbour FG alleges that DB lit a fire right out front of FG's trailer and invited FG to come outside and fight with him and his friends. Neighbour FG stated in his letter that he advised DB to leave or he would call the police, and they left. On June 18, neighbour FG alleges that another fire occurred at 10:30 p.m.

The agent for the tenant responded to the letter from neighbour FG by stating that the fire was about 8:30 p.m. or 9:00 p.m. and denies the police were called. However, the agent for the tenant later confirmed during the hearing that the police did arrive and asked him to turn down his music.

The third letter from neighbour AV, states “playing his music too loud” and on June 28, “had a fire in back yard”, but not describe DB as the alleged perpetrator.

The landlord also provided a copy of the rules and regulations for the Mobile Home Park dated May 9, 2012. The agent for the tenant, confirmed during the hearing that he received and read the rules and regulations dated May 9, 2012. When asked about rules regarding no open fires in park, the tenant stated that the landlord approved a fire pit he purchased for fires. The landlord disputed the tenant’s testimony by stating that the tenant purchased a fire bowl but it was certainly not approved and would not be approved for fires. As a result, the tenant has been having fires without approval, according to the landlord.

The landlord stated that the agent for the tenant is always drunk and trying to pick fights with other people in the mobile home park and is therefore unreasonably disturbing both the landlord and other occupants. The agent for the tenant disputed the landlord’s testimony by stating he is not always drunk and is not getting into fights. The landlord responded by stating that nobody will fight with the agent for the tenant which is why the fights do not occur, but that the agent for the tenant taunts other occupants.

There was evidence provided regarding the demolition of an addition. Both parties agree that by the time of the arbitration hearing, the addition had been demolished down to the deck area.

Analysis

Based on the documentary evidence, oral testimony and on the balance of probabilities, I find the following.

In determining whether the Notice should be cancelled, I first will consider whether the landlord has met the burden of proof to prove that tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

I give the first and third letters from witnesses JT and AV little weight in my decision as DB was not specifically mentioned as the alleged perpetrator. I give the letter from witness FG, significant weight in my decision. The agent for the tenant, provided inconsistent testimony in his response to the attendance of the police and whether he offered to turn down his music or whether the police asked him to turn down his music. For this reason, I accept the statements of witness FG and the landlord with respect to the significant interference that DB has had on both the landlord and other occupants of the mobile home park.

In determining significant interference and unreasonable disturbance, I consider the time of day of the complaint(s), the nature of the complaint and the alleged impact of the complaint on the complainant. In the circumstances before me, I find that the landlord has provided sufficient evidence to prove the tenant or a person permitted on the

property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord. Playing music loudly at 3:00 a.m. on just one occasion with the need to call the police for assistance constitutes significant disturbance. In addition, I find the testimony provided by the agent for the tenant was inconsistent during the hearing.

Accordingly, I do not have to consider the other the other portions of the Notice as the burden of proof on the first portion has been met.

Therefore, **I dismiss** the tenant's application to cancel the Notice.

Given the above and taking into account the landlord's request for an order of possession in his application for Cause, **I find** that the landlord is entitled to an order of possession effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that court.

Conclusion

I dismiss the tenant's application to cancel the Notice.

I grant the landlord an order of possession effective **two days** after service upon the tenant. This order must be served on the tenants and may be enforced in the Supreme Court of British Columbia.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: September 05, 2012

Residential Tenancy Branch