



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with an application by the tenant for a monetary order. Both parties participated in the conference call hearing.

The respondent in this action is the resident manager of a manufactured home park.

Issue to be Decided

Is the tenant entitled to a monetary order as claimed?

Background and Evidence

The tenant seeks compensation for what she described as negligence on the part of the landlord.

The tenant testified that on the night of August 19, 2012, she was assaulted by another tenant, S.M. The tenant alleged that the landlord knew that S.M. intended to assault her, but chose not to act and that the landlord acted maliciously in issuing the tenant a notice to end tenancy after the incident. The tenant testified that the police refused to press charges against S.M., indicating that if they were going to recommend charges they would have to recommend charges against the tenant also.

The tenant produced 2 witnesses. The first witness, K.H., did not personally witness the events of August 19, but shared what she had heard from other parties who had witnessed the events. K.H. testified that after the tenant received the notice to end tenancy, K.H. spoke with the park owner in an attempt to persuade him to withdraw the notice to end tenancy. She stated that the owner told her that the landlord had told her that the tenant has a mental problem.

The tenant's second witness, F.F., testified that he witnessed the assault and that he went to the landlord's home to report the incident. F.F. was unsure of the exact words used by the landlord, but believed her to have said that she knew a confrontation was

coming. He further testified that he asked the landlord to call the police but that she told him to make the call.

The tenant indicated that the landlord has discriminated against her because of a disability.

The landlord denied that she had any knowledge that S.M. would assault the tenant and that she believed that S.M. intended to speak with the tenant. The landlord denied having told F.F. that she knew that a confrontation was coming but confirmed that she told F.F. to phone the police.

The landlord denied discriminating against the tenant on the basis of a disability and testified that she issued the notice to end tenancy in response to 6 letters of complaint which she had received from other tenants.

The landlord produced as a witness K.E., who is married to one of the complainants. K.E. testified that the tenant had contacted him and his wife frequently by making an excessive number of telephone calls and coming to their home and banging on doors and windows. K.E. stated that this activity precipitated his wife's written complaint and confirmed that the activity has ceased.

Analysis

The tenant bears the burden of proving on a balance of probabilities that the landlord has failed to meet her obligations under the tenancy agreement and the Act and has engaged in behaviour which has caused the tenant to lose quiet enjoyment of the rental unit.

I am not persuaded that the landlord knew that S.M. intended to assault the tenant. I find it more likely that the landlord was aware that S.M. was angry with the tenant, but that she was unaware that an assault was likely.

I accept that the landlord had received numerous written complaints about the tenant and that she acted upon these complaints by issuing a notice to end tenancy. I can find no fault with the landlord's actions in this regard.

I find that there is insufficient evidence to show that the landlord has in any way discriminated against the tenant on the basis of a disability. While the landlord may have told the owner that the tenant had a mental problem, I find that if she did so, it was likely an opinion formed on the basis of the complaints that she had received, which indicate erratic behaviour on the part of the tenant.

I find that the tenant has not met the burden of proving that the landlord has failed to provide her quiet enjoyment of the manufactured home site or that the landlord has engaged in egregious behaviour which would give rise to compensation. For this reason I dismiss the tenant's claim in its entirety.

Conclusion

The claim 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 *Manufactured Home Park Tenancy Act*.

Dated: January 31, 2013

Residential Tenancy Branch

