



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

This hearing dealt with the tenants' application for dispute resolution under the *Manufactured Home Park Tenancy Act (the "Act")*, seeking to cancel a 1 Month Notice to End Tenancy for Cause (the "Notice") and for recovery of the filing fee.

The parties appeared, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing, the landlord confirmed receiving the tenants' documentary evidence; further the landlords confirmed that they had not submitted documentary evidence for the hearing.

Thereafter all parties gave affirmed testimony, were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted 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 Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Have the tenants established an entitlement to have the Notice to End Tenancy for Cause cancelled?

Background and Evidence

I heard undisputed evidence that this tenancy began on November 1, 2012, and monthly pad rent was \$175.

Pursuant to the Rules, the landlords proceeded first in the hearing and testified in support of issuing the tenants a 1 Month Notice to End Tenancy for Cause. The landlord testified that they issued the tenants the Notice on May 9, 2013, by leaving it with the male tenant, listing an effective end of tenancy on June 30, 2013.

The causes listed on the Notice alleged that the tenants have significantly interfered with or unreasonably disturbed another occupant or the landlord, seriously jeopardized the health or safety or lawful right of another occupant, have engaged in illegal activity that has adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord, or have breached a material term of the tenancy agreement which was not corrected within a reasonable time after written notice to do so.

In support of their Notice, the landlord testified the tenants, in December 2012, caused a significant disturbance on the premises, by assaulting each other, yelling and screaming. The landlord submitted that the disturbance was so serious that two police cars were called to the premises. The landlord said that the tenants were issued a warning letter, informing the tenants that a further occurrence would result in the landlords seeking to evict the tenants.

The landlords submitted that another occurrence of the same type occurred on or about May 5, 2013, in which the tenants again were assaulting each other, resulting in the female tenant being taken to the hospital by ambulance.

The landlords said that the police again attended the premises due to the significant disturbance.

The landlords said that a neighbour submitted a letter containing a statement that she witnessed the tenants assaulting each other and that she was afraid for her and her family's safety and security.

As to the illegal activity, the landlord submitted that assault is a criminal action.

In response, the tenant said that there was an incident in December, but that situation was addressed and nothing has happened since.

The tenants denied creating the disturbance in May as alleged by the landlords. In explanation, the female tenant said that the male tenant was not on the premises that day and that instead, she fell down and hit her head. The tenant said she blacked out and when she woke up, she called the ambulance herself.

The female tenant referred to their documentary evidence, a statement from her physician stating that on that date, the tenant had a fall and most likely suffered a concussion.

The tenants contended that the landlords were very rude and abusive towards the tenants.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

The landlords have the burden of proving on the balance of probabilities that there were sufficient grounds to end this tenancy for the stated causes.

In the case before me, I find the landlords submitted insufficient evidence to demonstrate that the tenants have significantly interfered with or unreasonably disturbed another occupant or the landlord, seriously jeopardized the health or safety or lawful right of another occupant, has engaged in illegal activity that has adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord, or has breached a material term of the tenancy agreement which was not corrected within a reasonable time after written notice to do so..

In reaching this conclusion, the landlords testified, giving a version of events, and the tenants testified, giving a differing, equally probable version of events.

The landlords have not submitted any supporting witness statements or other documentary evidence or any witness' testimony to rely upon to support their position that there was cause to end the tenancy.

In any dispute when the evidence consists of conflicting and disputed verbal testimony, in the absence of other independent documentary evidence, I find the party who bears the burden of proof will not likely prevail on the balance of probabilities. Therefore it is not necessary for me to determine credibility or assess which set of "facts" is more believable because disputed oral testimony does not sufficiently meet the burden of proof.

Due to the above, I therefore find that the landlords have submitted insufficient evidence to prove the causes listed on the Notice.

As a result, I find the landlords' 1 Month Notice to End Tenancy for Cause, dated and issued May 9, 2013, listing an effective move out date of June 30, 2013, is not valid and not supported by the evidence, and therefore has no force and effect. I order that the Notice be cancelled, with the effect that the tenancy will continue until ended in accordance with the *Act*.

I grant the tenants recovery of their filing fee of \$50, due to their successful application, and authorize them to redeem this amount by deducting \$50 from their next or a future month's rent payment.

Conclusion

The tenants' application has been granted and I have cancelled the landlords' 1 Month Notice to End Tenancy for Cause.

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: June 12, 2013

Residential Tenancy Branch