



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KING GEORGE ENTERPRISES LTD
and [tenant name suppressed to protect privacy]

Decision

Dispute Codes: CNC, OPC, FF

Introduction

This Application for Dispute Resolution was filed by the tenant seeking to cancel a One-Month Notice to End Tenancy for Cause dated May 27, 2013. The hearing was also to deal with the landlord's cross application for Dispute Resolution seeking an Order of Possession based on the Notice.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The participants had an opportunity to submit documentary evidence prior to this hearing, and the evidence has been reviewed. The parties were also permitted to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the affirmed testimony and relevant evidence that was properly served.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession based on the One Month Notice to End Tenancy for Cause or should the Notice be cancelled as requested by the tenant?

Background and Evidence

Submitted into evidence was a copy of the One-Month Notice to End Tenancy for Cause dated May 27, 2013 with an effective date of June 30, 2013.

The One-Month Notice to Notice to End Tenancy for Cause indicated that:

- there are an unreasonable number of occupants on the site;
- the tenant or a person permitted in the manufactured home park by the tenant has (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the manufactured home park; (ii) seriously jeopardized the health or safety or a lawful right or interest of the

landlord or another occupant; or (iii) put the landlord's property at significant risk;

- the tenant or a person permitted in the manufactured home park by the tenant has engaged in illegal activity that: (i) has caused or is likely to cause damage to the landlord's property; (ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the manufactured home park, or; (iii) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- the tenant or a person permitted in the manufactured home park by the tenant has caused extraordinary damage to a manufactured home site or the manufactured home park;
- the tenant failed to repair damage to the site, as required under section 26 (3) *[obligations to repair and maintain]*, within a reasonable time.

The landlord testified that the tenant had disturbed other residents by having late-night visitors coming and going with blaring music from their vehicles at all hours. This allegation was denied by the tenant.

The landlord testified that they received complaints from other residents and police that the tenant has been engaging in illegal activities that endanger other occupants in the Manufactured Home Park. The tenant stated that this accusation was untrue.

The landlord testified that the tenant has not been storing their sewage waste in a holding tank as required by law, but has been dumping their "porta-potty" directly into the sewer outlets in the park. The landlord provided a photograph allegedly showing the tenant in the process of emptying a container into the ground outlet.

The landlord also testified that the tenant was ordered to remove all furnishings, tarps and garbage gathered just outside the mobile home. The landlord provided a copy of a letter from the municipality that was hand delivered to the tenant on May 23, 2013 citing a bylaw infraction and ordering the park to remove the items immediately, under penalty of fines and removal costs. The landlord pointed out that the tenant had still not removed the refuse and furniture as of June 1, 2013 and submitted a photo verifying that the site was still being used to store these items. The landlord testified that the material in question is still there today, including an unsecured refrigerator and other furnishings.

The tenant did not deny that the items were still on the site, but stated that she could have them removed.

Analysis

I find that the tenant has not complied with the municipality's order to remove the garbage and furnishings outside the home. In this regard, I find that the tenant failed to maintain the pad site, as required under section 26 (3) of the *Manufactured Home Park Tenancy Act*, and did not correct this lapse within a reasonable period of time.

In addition to the above, I find that the tenant's persistence in dumping sewage directly into the outlet, without using a sanitary holding tank, has seriously jeopardized the health or safety or a lawful right or interest of the landlord and others and has put the landlord's property at significant risk.

Given the above, I find I am not prepared to cancel the One Month Notice because it was issued on valid grounds. Accordingly, I dismiss the tenant's application to cancel the One-Month Notice to End Tenancy for Cause dated April 23, 2013.

Based on the evidence before me, I hereby grant the landlord an Order of Possession based on the One-Month Notice to End Tenancy for Cause terminating the tenancy on June 30, 2013 at 1:00 p.m. This order must be served on the tenant and may be enforced through B.C. Supreme Court if necessary.

I find that the landlord is entitled to be reimbursed the cost of the application and I grant the landlord a monetary order against the tenant for \$50.00. This monetary order must be served on the tenant and may be enforced through an order from Small Claims Court.

Conclusion

The landlord is successful in the cross application and is granted an Order of Possession and a monetary order for the cost of the application. The tenant's application to cancel the notice 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: June 25, 2013