



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Meadowood Residential Parks
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MT, CNC

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking more time to cancel a notice to end tenancy and to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by the tenant; her two witnesses; the landlord; and his two witnesses.

The tenant testified that she received the 1 Month Notice to End Tenancy for Cause on August 6, 2013. The tenant's Application for Dispute Resolution was filed on August 9, 2013. I therefore find the tenant submitted her Application within 10 days of receiving the Notice and as such she does not require additional time to submit her Application. I therefore amend the tenant's Application to exclude the issue of more time to apply.

During the hearing, the landlord did not verbally request an order of possession should the tenants be unsuccessful in their Application.

Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to Section 40 of the *Manufactured Home Park Tenancy Act (Act)*.

Background and Evidence

The landlord provided into evidence a copy of a tenancy agreement signed by the parties for a month to month tenancy beginning on June 18, 2012 for the monthly rent of \$205.00 due on the 1st of each month.

The tenant provided a copy of a 1 Month Notice to End Tenancy for Cause issued by the landlord on July 30, 2013 with an effective date of August 31, 2013 citing 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 tenant has engaged in illegal activity that has or is likely to adversely affect the quiet enjoyment, security, safety, or physical well-being of another occupant or the landlord; 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 parties acknowledge that the tenant's son is the primary resident in the subject address and that the tenant herself lives elsewhere.

The landlord submitted into evidence several letters advising the tenant of the complaints regarding noise, in particular, at the subject address beginning in March 2013 followed by one in April and May 2013. The letters advise that the tenant of the inappropriate behaviour and in the May 2013 the tenant is warned that he may consider ending the tenancy if the disturbances do not stop.

The landlord testified that he served the notice to the tenant by placing it in the mailbox at the manufactured home and by serving to the tenant's place of employment. The tenant submits that she did not receive it until she returned to work from vacation on August 6, 2013.

The landlord relied primarily on the complaints of two other tenants in the park. The landlord provided written statements from both of the complainants and they both appeared at the hearing as witnesses. Both parties were provided an opportunity to question the witnesses.

The complainant who lives next door to the subject address provided a very detailed account of disturbances during the tenancy. In her written statement the complainant list a number of times where she has been disturbed by noises such as car or home doors being slammed repeatedly; loud music; loud discussions; loud television.

She also complains about the tenant's son throwing bladed objects at targets in his area; that he vomits outside and off the deck of the home; and of talking too loudly on his cell phone while in the driveway. This complainant lists times of these events and they include times throughout the day including during the afternoon; morning; and with several late at night or early morning.

The other complainant writes her issues with less detail such as timing but does raise similar issues and additional ones such as the garbage can being out 2 or 3 days early; traffic coming and going at all hours; vomiting outside; the condition of the yard area; "swinging and slashing with a whip flag 'gladiator style' then he selected a heavy shovel-handled ice scraper used for decks and repeated the swinging and slashing motions"; and additional complaints of loud music and talking and swearing.

The tenant also provided two witnesses and both parties were given an opportunity to ask any questions they had of the witness. Neither witness provided any written statements.

The tenant's first witness provided background regarding some of the tenant's son's medical conditions and his medication regime. She submits that a side effect of the

medication, while determining appropriate dosages, is that the person may vomit. The witness attributes this as to the cause of the tenant's son's vomiting.

The tenant's other witness is the former resident from the subject address. She testified that the witness for the landlord who lives next door to the subject address constantly complains about everything. She stated that the neighbour would complain about noise when she would have drinks on the deck in the evening or coffee on the deck in the morning. She testified that no matter what she did the neighbour would complain to her about it.

The tenant also testified that this same witness for the landlord had attended the tenant's place of employment and caused a commotion regarding her complaints about the tenant's son.

Analysis

Section 40 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if one or more of the following applies:

- a) The tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
- b) The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
- c) The tenant has failed to comply with a material term, and has not corrected the situation within a reasonable time after the landlord gives written notice to do so.

I accept the tenant's position that the neighbouring tenant appears to spend far too much time paying attention to her neighbours during the day and that a tenant is allowed to open and close doors and car doors and have conversations on their deck without being worried about being evicted during the course of the day.

I find that, while it may be unpleasant to watch or hear a person vomiting outside I don't see that the *Act* would envision an opportunity to end a tenancy because the tenant has medical problems that induce him to vomit uncontrollably. I also find the act of throwing weapons or blades in one's own yard does not contravene anything in the *Act*.

However, I find that the landlord has provided sufficient evidence to establish that the tenant's son continues to allow on site disturbances during the late hours of the night and early hours of the morning. Despite the tenant's testimony that her son's condition renders his ability to make choices regarding his associates difficult and that he often makes the wrong choices, the tenant herself is responsible to ensure those choices do not disturb the other residents in the park.

For the above reasons, I am satisfied that the landlord has established cause to end the tenancy and that the landlord has provided sufficient warning to the tenant of the ongoing noise problems and the impact on the tenancy should the problems continue.

Conclusion

As a result, I dismiss the tenant's Application. I find the 1 Month Notice to End Tenancy for Cause issued on July 30, 2013 with an effective date of August 31, 2013 to be enforceable and the tenant must vacate the pad accordingly.

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: September 17, 2013

Residential Tenancy Branch

