



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application to cancel a notice to end tenancy for cause. The tenant, two witnesses for the tenant, the landlord, an agent for the landlord and a witness for the landlord participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. With the exception of three pages of court documents that the tenant asked to have withdrawn and which I did not admit as evidence, the parties raised no further issues regarding the documentary evidence.

Four witnesses for the tenant were on the line at the beginning of the hearing. I obtained the names and phone numbers of these witnesses and then excluded them from the hearing until it was time for me to hear from them. After the landlord had given their testimony and the tenant had given hers, I called the tenant's first witness. When the witness was dialed in, he acknowledged that he was present in the tenant's home with her, and had heard all testimony up to that time. I informed the tenant that I could not hear from this witness, as the purpose of excluding a witness was so that there would be no question of their testimony being tainted by having heard the previous evidence. I asked the tenant if any of her other intended witnesses were present, and she stated that others were "waiting outside in the truck." I asked the tenant if any of her intended witnesses were not present, and she stated that two witnesses were located in other cities. I allowed those two witnesses and heard their testimony.

I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the notice to end tenancy valid?

If so, is the landlord entitled to an order of possession?

Background and Evidence

The tenant rents a site in a manufactured home park. On January 30, 2014 the landlord served the tenant with a notice to end tenancy for cause. The notice indicated that the reason for ending the tenancy was 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.

Landlord's Evidence

The landlord stated that in the seven years that the tenant has resided in the park, they have received regular complaints from other residents about the tenant's behaviour. The landlord stated that the police have been called many times to break up parties, loud noise and fights at all hours of the night. The landlord stated that on two occasions in January 2014, suspected members of biker gangs attended the tenant's residence looking for stolen drugs. The landlord stated that the straw that broke the camel's back was the fact that in December 2013 and January 2014 the police attended at the tenant's residence 10 times, for fighting, beatings, loud music and bikers. The landlord stated that other residents of the park are in fear for their lives. In support of their evidence the landlord submitted a petition they received from 12 other park residents who wish to have the tenant evicted.

In the hearing the landlord orally requested an order of possession.

Tenant's Response

The tenant stated that she was aware that the police were out here a lot, but it was not always her fault. The tenant stated that she has never been charged with possession of drugs, drugs were never found in her house, and she denied selling drugs. The tenant stated that if she had drugs in her house and the cops were here all the time, they would arrest her. The tenant stated that she has friends come over, but she doesn't have vehicles coming and going all day and night.

The tenant's first witness, CP, stated that two years ago there was an issue going on with the tenant's music, so she removed the tenant's speakers for her sound system.

CP also stated that she was on the phone with the tenant when she could hear another person, AS, trying to break down the tenant's door.

The tenant's second witness, AS, stated that he was mostly to blame for the police attending, because the tenant had a no-contact order against AS, and AS was being stubborn and refused to leave. AS acknowledged that that he was taken into custody, stating first that it was for a breach of the no-contact order and later stating that it was for mischief because he broke the tenant's window. AS confirmed that the tenant had been taken in and released the same day, but was not charged. AS stated that he has pretty much lived with the tenant, and he has never seen any drugs come out of her house or seen her sell anything. AS stated that the guys who came over looking for marijuana that was stolen from them were looking for AS, not the tenant.

Analysis

Upon consideration of the evidence of the landlord and the tenant, I find that the notice to end tenancy is valid. The tenant and her witness AG both confirmed that the police did attend several times at the tenant's residence. AS indicated that some of these times it was his fault, not the fault of the tenant; however, he did not take full responsibility for all of the incidents or provide evidence to establish that the tenant was without fault. I find that the testimony of both the tenant and AG regarding the presence or selling of drugs in the tenant's residence to be evasive and unreliable. I accept the evidence of the landlord that the behaviour of the tenant has significantly interfered with and unreasonably disturbed other residents of the park, including the landlord.

As I find the notice valid and the landlord orally requested an order of possession in the hearing, I accordingly must grant the landlord an order of possession.

Conclusion

The tenant's application is dismissed.

I grant the landlord an order of possession effective two days from service. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

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: March 31, 2014

Residential Tenancy Branch

