



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Vista Village Trailer Park Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, MT, FF

Introduction

This hearing dealt with the tenants' application for dispute resolution under the *Manufactured Home Park Tenancy Act (the "Act")*. The tenants applied for an order cancelling the landlord's 1 Month Notice to End Tenancy for Cause (the "Notice"), for an order granting more time to make an application to cancel a notice to end tenancy and for recovery of the filing fee paid for this application.

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

Thereafter all parties 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.

At the outset of the hearing, the documentary evidence of the parties was discussed and both parties acknowledged receiving the other's evidence, and in the case of the tenant's digital evidence, the landlord confirmed receiving the DVD and being able to view the contents. Neither party raised any issue or concern about the other's evidence or the tenants' application.

I have reviewed the significant amount of oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Preliminary matter-Although the tenants requested an order granting more time to make an application to cancel a notice to end tenancy, I note that their application was made within the time frame allowed for disputing a Notice, in this case, within 10 days of receiving the Notice. Therefore it was not necessary to consider this request.

Issue(s) to be Decided

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

Background and Evidence

This tenancy for the manufactured home site began on November 17, 2011, and current monthly pad rent is \$475.

Pursuant to the Rules of Procedure, the landlord proceeded first in the hearing and testified in support of issuing the tenants a 1 Month Notice to End Tenancy for Cause. The Notice was dated May 30, was delivered on May 30, 2014, by registered mail, according to the landlord, and listed an effective end of tenancy on July 31, 2014.

The causes listed on the Notice alleged that the tenants have significantly interfered with or unreasonably disturbed another occupant or the landlord and seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

In support of their Notice, landlord MB testified that he was trimming the grass in the empty lot on the other side of the wooden fence where the tenants' manufactured home was located. In the back corner of the empty lot, near some woods, MB's weed cutter hit what he said was dog feces, which splattered over MB's work boots, according to MB. MB had to leave to change his clothes and wash up. MB also stated that there was a strong odour in the corner of the lot. The landlord submitted that the dog feces he hit with his weed trimmer was as a result of the tenants throwing their dogs' feces over the fence to the corner of the empty lot.

In response to my question, the landlord submitted that this incident occurred on May 29, 2014. In further response, the landlord confirmed not seeing the tenants throw their dogs' feces and not seeing the tenants' dogs go to the empty lot to defecate.

Additionally, the landlord submitted that the tenants have made numerous telephone calls to the RCMP to file false reports regarding LW and MB, when they were only attempting to conduct landlord business around the manufactured home park, which has impacted negatively their ability to go about landlord business.

The landlord submitted that the tenants have encouraged another tenant of the manufactured home park to call the RCMP about the landlords to file false reports.

The landlord submitted a substantial amount of evidence, which included a few letters to the tenants over the course of the tenancy; however, these letters were remote in time and the landlord did not allege that they led to the issuance of the Notice on May 30, 2014.

The landlords also submitted photographic evidence showing the empty lot, the fence and a long shot view of the part of the empty lot pertaining to their claim that there were dog feces on the lot.

Tenants' response-

The tenants' denied throwing their dogs' feces over the fence, as their dogs either defecate on their lot or while on walks. When their dogs relieve themselves on the tenants' lot, the tenants put the dogs' waste material in a bucket, and when the bucket is full, they take it to the local landfill for disposition, according to the tenants. The tenants submitted that the excrement filled bucket is located in the corner of their lot, which could be the reason that the landlord noticed a foul odour.

The tenants submitted that their dogs do not go over to the empty lot at all, as they are kept tied to a long rope in the yard or walked accompanied by the tenants.

The tenants submitted photos of the bucket containing the dog excrement and a photo of clumped grass trimmings, which they claim is what the landlord hit on the empty lot, not dog excrement.

As to phoning the RCMP, the tenants denied phoning the police repeatedly, other than a phone call earlier in the tenancy when it was necessary.

The tenants produced a report from the RCMP confirming that a search of their records since 2009 shows that the tenants made only one complaint against MB on April 14, 2012, and none against LW.

As to the landlord's allegations that they have encouraged another tenant to call the RCMP against the landlords, the tenants submitted that on one occasion, they noticed MB shining lights into that neighbour's manufactured home at night, going around and around his home, staying for 45 minutes. The tenants submitted that this suspicious activity was reported to their neighbour, as they do look out for their neighbours.

Analysis

The landlord had the burden of proving the causes listed on the Notice and after considering all evidence, I find that the landlord has not presented sufficient evidence to demonstrate that the tenants have significantly interfered with or unreasonably disturbed another occupant or the landlord and seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

In reaching this conclusion, I find the landlord failed to prove that the tenants have thrown their dogs' feces over the fence, as I was persuaded by the landlords' admission that they had not seen the tenants throw the feces or seen the tenants' dogs on the empty lot or could otherwise prove the feces was from the tenants' dogs. Even if true, which if I do not find, I would not find that this activity rises to the level of ending the tenancy.

Further, I found the tenants' evidence that their dogs are kept on the property and that their waste is picked up and disposed of later to be compelling. In particular, I was persuaded by the tenants' photographic evidence of the dog waste bucket and the clumped grass clippings.

Additionally, as to the alleged multiple police complaints, I was persuaded by the tenants' RCMP's report showing this to be untrue after a search of their records and I therefore accept their testimony that they had not made the multiple complaints against the landlords.

As to the tenants being responsible for the other tenant calling the RCMP, I do not find the landlords submitted sufficient evidence to prove this allegation or that the tenants did not have a reason to speak to their neighbour.

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

As a result, I find the landlord's 1 Month Notice to End Tenancy for Cause dated and issued on May 30, 2014, for an effective move out date of July 31, 2014, 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*.

Due to their successful application, I grant the tenants recovery of their filing fee of \$50, and direct them to deduct this amount from their next, or a future month's pad rent in

satisfaction of this monetary award. The tenants should inform the landlord when they are making this deduction.

Conclusion

I grant the tenants' application seeking cancellation of the landlord's 1 Month Notice, and the Notice is hereby cancelled with the effect that the tenancy will continue until ended in accordance with the *Act*.

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: July 23, 2014

Residential Tenancy Branch

