



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OP

Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy for cause.

Both the landlords and the tenant attended the teleconference hearing and gave affirmed evidence.

Issue(s) to be Decided

Should the notice to end tenancy be cancelled?

If not, is the landlord entitled to an order of possession?

Background and Evidence

The tenancy started in 2008, however the named tenant has moved out of the manufactured home and it is currently occupied by the tenant's son.

The landlord gave evidence that she served the tenant personally with a notice to end tenancy for cause (the "Notice") on June 14, 2014. The Notice specifies the following reasons:

- Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord;
- Tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The landlord gave evidence that the park rules specify quiet time from 10 p.m. until 7 a.m. She gave evidence that another occupant of the manufactured home park has an

anxiety disorder and the tenant's son was advised of this (because he was contracted to do renovation work on the other occupant's home).

The landlord's evidence is that the other occupant has a dog that is "her life". She says that she and several park residents attended a dance on the evening of June 7, 2014. After the dance, she observed the tenant's son and his friend coaxing the other occupant's dog and pulling on the dog's leash. When she queried what they were doing, they told her that the other occupant (the dog's owner) was going to come over. She says the tenant's son and his friend began yelling loudly. Since it was 1:30 a.m., she went back inside and called the dog's owner to ask if the dog's owner knew where her dog was. The dog's owner said she had just let her dog out for a moment.

The landlord gave evidence that she went with the dog's owner over to the tenant's manufactured home. The dog's owner was distraught and repeatedly asked the tenant's son for her dog back before he opened the door. When the tenant's son opened the door, he saw the landlord and dog's owner and returned the dog.

The landlord states the tenant's son lied to her (about what he was doing with the dog), made a lot of noise late at night, and took another occupant's dog causing distress to the dog's owner.

The tenant says that her son and the dog's owner have resolved their differences and the situation has been overemphasized. She was not present the evening of June 7th but her son told her that the dog simply followed him home.

Analysis

When a landlord issues a notice to end tenancy for cause and the notice is disputed by the tenant, the onus is on the landlord to prove one or more of the specified causes on a balance of probabilities. Here, the landlord has specified two causes for ending the tenancy. If the landlord proves at least one of those causes, the Notice will not be cancelled. However, if the landlord does not prove any of the specified causes, then I must cancel the Notice.

I found the landlord to be a credible witness and I accept her eyewitness account of the events the evening of June 7, 2014. I find that the tenant's son did take another occupant's dog without that occupant's consent. I find that this action constitutes significant interference and unreasonable disturbance of another occupant.

For that reason, I uphold the Notice. Pursuant to Section 48(1), the landlord is entitled to an order of possession. Since the tenant has paid pad rent for the month of August 2014, the landlord agreed the order of possession shall be effective on August 31, 2014. I grant the landlord an order of possession which must be served on the tenant. Should the tenant fail to comply with the order, it may be filed for enforcement in the Supreme Court.

The landlord advised that the manufactured home must be vacant by the effective date and time. She will, however, allow the tenant to continue to rent the pad for up to an additional three months as long as the tenant makes reasonable efforts to sell the vacant manufactured home.

Conclusion

The tenant's application is dismissed. I grant the landlord an order of possession effective August 31, 2014 at 1 p.m.

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: August 21, 2014

Residential Tenancy Branch

