



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This was a hearing with respect to the tenants' application to cancel a one month Notice to End Tenancy for cause and their claim for a monetary award. The hearing was conducted by conference call. The hearing was originally scheduled for a conference call on September 4, 2014. At the hearing on September 4th the tenant claimed that she had received late evidence from the landlord and had not been given sufficient time to respond to it. In order to assure that the tenants had a fair opportunity to respond to the landlord's evidence as to the grounds and cause for seeking to end the tenancy, I adjourned the hearing. It was re-scheduled for a conference call hearing on November 4, 2014. The applicant submitted additional documentary evidence before the reconvened hearing. The female tenant called into the hearing and participated. The male tenant was present with her during the hearing, but he did not participate and did not provide any testimony at the hearing although he was invited to do so.

The landlord and his employee, who is the manager of the Manufactured Home Park attended the hearing and provided documents and oral evidence. I also heard testimony from the named witnesses who were called to give evidence on behalf of the landlord.

Issue(s) to be Decided

Should the Notice to End Tenancy dated June 23, 2014 be cancelled?

Background and Evidence

The rental unit is a manufactured home site in the landlord's manufactured home park. The park is intended for senior citizens. On June 23, 2014 the landlord served the tenants with a one month Notice to End Tenancy for cause. The cause alleged was that the tenants have significantly interfered with or unreasonably disturbed another

occupant or the landlord. This is the second dispute resolution proceeding regarding this tenancy. There was a hearing in 2011 with respect to the tenants' application to cancel a one month Notice to End Tenancy and of the landlord's application for an order for possession. During the hearing in 2011 the matter was settled and it was agreed that the tenancy would continue, subject to certain conditions.

The landlord testified that the Notice to End Tenancy was given to the tenants because the male tenant, in particular has continued to be abusive, threatening and insulting to the park manager and his wife and this behaviour has continued since the last hearing in 2011. The landlord said that the tenant has refused to abide by park rules and has consistently used profane and derogatory language directed at his park manager. There have been several letters and reprimands delivered to the tenants since 2011. On June 3, 2014 the landlord's park manager complained to the landlord that while he was attending to work in another occupant's yard, the male tenant started yelling profanities at him at the top of his voice and threatening to charge him with trespassing if he ever set foot in the tenant's yard. The park manager reported that he was concerned, as was his wife, that the tenant may become physical at any time. The manager's wife said in a statement that she is afraid of the tenants because of the ongoing intimidation. The landlord testified that the male tenant is often drunk and abusive, and shouts obscenities at the park manager. The landlord wrote to the tenants on June 8, 2014 by way of a final notice to the tenants to advise them that if there were further incidents the landlord would serve a Notice to End Tenancy.

According to the landlord's evidence, including written statements from other residents of the park, after June 8th the tenant has disturbed other occupants swearing and screaming. An occupant wrote to document a further incident on June 22nd, 2014. She reported that on Sunday, June 22, 2014 the male tenant was outside of the rental unit on common property yelling profane remarks and saying that he was going to "get the landlord". The eviction notice was served to the tenants the day following this incident. The park manager reported that after the notice was served the tenants began to play very loud music from the rental unit with their windows open and also commenced to have loud conversation that was more of a tirade laced with profanities about the landlord and the manager. Among the remarks the male tenant said: "(name of manager) was too big of a fucking coward to come over and settle it like a real man." The female tenant called the landlord a day later to say to the landlord what a "moron" and "idiot" she considered the park manager to be.

In a written submission the manager's wife commented that:

No other tenant in the park acts like this at anytime. The music and loud vulgar talk is very frightening. People stay inside and refuse to talk about the situation because they are afraid. The (name of tenants) are great example of adult bullying.

She also said in her statement that:

The situation is getting to the point where we are considering resigning from the position as Manager as well as selling and relocating. It is unfair that we should find ourselves in this position. This Tenant is giving this park a poor reputation and it is very difficult for people to live here and feel secure in their retirement years.

The park manager confirmed that he is considering resigning if the tenancy continues. The landlord said that there are five homes for sale in the park and the impetus for most of the sales is the occupants' dissatisfaction with living conditions due to the conduct of the tenants.

I heard a significant amount of evidence that related to another unit in the park whose occupants became ill and moved from the property. Their manufactured home was purchased by a family member. I heard evidence that the tenants removed and sold belongings from the home without permission. The new owner of the trailer said that the home was intended be a summer retreat, but due to some inappropriate behaviour by the tenant towards her one evening, when she was staying at the trailer and he approached her late in the evening while obviously inebriated., she and her husband have put the trailer up for sale.

The female tenant denied any impropriety with respect their dealings with the neighbours' trailer. She said the former owners were the tenants' close friends and they were looking after the trailer on their behalf after they were forced to move for health reasons. The female tenant said in a written submission that her husband had not acted inappropriately toward the new owner of the trailer, rather it was quite the reverse; the new owner disturbed them late at night by drinking and insisting that the tenants join her for a drink and to consume some marijuana.

The tenants submitted letters in the nature of character references. Some of the letters contained criticisms of the landlord and the park manager. The tenants contend that they are being unfairly treated and that the landlord is pursuing a vendetta against the tenants. The tenant raised issues that were discussed at the dispute resolution hearings in 2011 related to maintenance and snow removal. The tenant alleged that the

landlord deliberately blocked the tenants' driveway with snow when plowing the streets in the park. The tenant's position is that the landlord's accusations about the tenants' behaviour are crazy, unfounded and there is not a shred of truth to them. The tenant complained that the landlord has subjected them to a campaign of bullying and harassment.

Analysis

I heard the direct evidence of the landlord and park manager concerning the grounds for issuing the one month Notice to End Tenancy. I found the evidence presented by the landlord and his manager to be credible and believable. I found the tenant's denials to be implausible; even in her recitations of events from her point of view in her written submissions; she provided confirmations of several of the confrontations that have occurred between the parties. Having heard the testimony of the landlord and of the tenant, but notably no testimony from the male tenant, although he was present at the hearing, I reject the tenant's contention that the landlord is seeking to evict the tenants because he bears some hateful grudge against them.

I accept the landlord's evidence that the tenants have, by their conduct, unreasonably disturbed other occupants and the landlord. Contrary to the tenant's perspective I find that the landlord has tried to work with the tenants to no avail. It is noteworthy that in the 2011 hearing the landlord consented to a settlement and to the continuance of the tenancy provided the tenants agreed to certain conditions. Since that proceeding I find that the evidence shows that there has been ongoing friction and confrontational relations with the tenants. I find that the landlord properly gave the tenants warnings that their continued hostile and disruptive behaviour would result in eviction and that the events of June 22nd amounted to a culminating incident that justified the landlord in finally serving a one month Notice to End Tenancy for cause. Apart from the claim that they have been harassed by the landlord, the tenants did not present evidence to establish the entitlement to a monetary claim in any amount. I find that the tenants' monetary claim is unfounded and it is dismissed.

Conclusion

I find that there were justifiable and sufficient grounds for the issuance of the Notice to End Tenancy dated June 23, 2014 and it was given for valid cause. I dismiss the tenants' application to cancel the Notice to End Tenancy without leave to reapply. The monetary claim is also dismissed without leave to reapply. I find that the tenancy has ended pursuant to the Notice to End Tenancy. The effective date of the notice which

was July 31, 2014 has passed. At the hearing the landlord requested that I issue an order for possession.

Section 55 of the *Residential Tenancy Act* provides as follows:

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,
- (a) the landlord makes an oral request for an order of possession, and
 - (b) the director dismisses the tenant's application or upholds the landlord's notice.

I have dismissed the tenants' application to dispute the landlord's Notice to End Tenancy. The landlord made an oral request for an order of possession at the hearing. Pursuant to section 55 I grant the landlord an order for possession effective two days after service upon the tenants. This order may be registered in the Supreme Court 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: November 21, 2014

Residential Tenancy Branch

