



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Highview Village
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

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

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give testimony and present their evidence. 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 tenancy began on June 1, 2008. The tenant rents a site in a manufactured home park. On October 6, 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 had engaged in illegal activity that jeopardized a lawful interest or right of the landlord.

Landlord's Evidence

The landlord's evidence was that on September 4, 2014 a fire broke out in the tenant's mobile home and the fire department attended. As a result of the damage done to the mobile home, a municipal building inspector posted a Do Not Occupy order on September 10, 2014 and a Stop Work order on September 11, 2014.

The landlord stated that each time she went to the mobile to talk to the tenant, she was in the mobile. The landlord's evidence indicates that on September 22, 2014 the tenant told the landlord that she had been staying in the mobile since September 20, 2014, and on September 26, 2014 the tenant called the landlord to say that her dog may bark for a bit while the tenant was out. The landlord stated that they tried talking to the tenant but she would make excuses because of her dog, and the situation was not rectified until the dog passed away, about one month ago.

The landlord stated that on October 6, 2014 the building inspector served the landlord with a bylaw violation warning notice, because the tenant had violated the Do Not Occupy and Stop Work orders and the landlord had not prevented the tenant from doing so. The landlord stated that she gave a copy of the notice to the tenant and told the building inspector that the landlord would take care of the situation by serving the tenant with a notice to end tenancy for cause.

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

Tenant's Response

The tenant denied occupying the mobile home, and stated that she has been in a hotel since September 9, 2014. The tenant acknowledged that her dog had been there, but stated that not once did the building inspector tell her that the dog could not be there. The tenant stated that she was fined for violating the Do Not Occupy order, but she disputed the ticket and it was cancelled. The tenant stated that she has had two contractors come in and examine the damage, and they both said the damage is not structural and therefore does not require an engineer's assessment. The tenant stated that she still has to go in to the mobile home because she has to feed her fish, and she does not want to move the aquarium until she knows what will happen with the mobile home.

Analysis

I find that the notice to end tenancy is valid.

I find that the tenant was in violation of the Do Not Occupy order. The tenant did not provide any evidence to support her statement that she successfully disputed the violation ticket or any reasons why the ticket was cancelled. Further, the tenant's own evidence supports the landlord's evidence that the tenant was occupying the mobile home, at least on a part-time basis.

The tenant's violation of the order put the landlord's lawful interests or rights in jeopardy, as the landlord was given the bylaw violation warning notice and was being held responsible for the tenant's action. For these reasons, I dismiss the tenant's application.

In the hearing the landlord orally requested an order of possession. When a tenant's application to cancel a notice to end tenancy is dismissed, and the landlord orally requests an order of possession in the hearing, I must grant the order of possession. Accordingly, I grant the landlord an order of possession. As the effective date of the notice has passed, the order of possession will be effective two days after it is served on the tenant.

Conclusion

The tenant's application is dismissed.

I grant the landlord an order of possession. 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: December 1, 2014

Residential Tenancy Branch

