



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNC, MNDC, OLC, PSF

Introduction

On July 9, 2015 the tenant applied to cancel a 1 month Notice to end tenancy for cause issued on July 8, 2015, an Order the landlord comply with the Act, a monetary Order for damage or loss under the Act, and an Order the landlord make repairs.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

Preliminary Matters

The application was amended to include the dispute address.

The tenant confirmed that he did not have a monetary claim.

The landlord did not dispute receipt of the tenants' documents. The tenant confirmed receipt of the landlord's evidence.

Background and Evidence

The hearing took place over a one hour period of time.

There was no dispute that the tenant was late paying his rent from January to June 2015. This was the result of a rent increase and the absence of prior notice given to the tenants' rent funder to pay the increased amount.

The landlord said that the main issue that resulted in the Notice to end tenancy was the presence of a dog in the manufactured home park. The dog was at the tenants' sisters' site and when she was directed to remove the dog from her site she gave the dog to her brother, the tenant at this hearing.

The tenant denied that the dog is vicious or that an order has been issued directing the dog be destroyed. The tenant acknowledged that the dog had chased a cat; which fell from a tree and died. On another occasion the dog had scared a child; the tenant said the dog did not bite the child. The tenant confirmed that the dog had snapped at the landlord when the landlord put his hand over the tenants' fence. He said the landlord should not have done that.

The tenant said that two or three weeks ago he removed the dog from the park and that it has been given to someone else.

Mutually Settled Agreement

After discussion in relation to the dog and the state of the tenants' site the parties reached a mutually settled agreement.

The tenant was given time to fully consider the possible outcome of eviction should the dog be found in the park again.

The tenant said that he will talk to the person who now has the dog. The landlord expressed concern that the dog will reappear as there have been promises in the past and the dog is just passed between different owners in the park.

The tenant considered his options and decided he could assume responsibility for the dog and ensure it was not allowed in the park.

The landlord said that if the dog were to be in the park while someone was visiting and the dog remained in a vehicle that would not cause the landlord to evict the tenant. The landlord is concerned that the dog will return to the tenants' site or his sisters' site and again pose safety risks to other occupants of the park. The tenant said he understood that if the dog were to return to the park and be seen loose or to be spending any time in the park the landlord would serve an Order of possession and his tenancy would end.

The parties then came to the following mutually settled agreement:

- By January 1, 2016 the tenant will repair the deck, the stairs to the deck and the railing of his home as it is unsightly and poses a safety risk;
- By March 14, 2016 the tenant will repair the fence on his site and that he will consult with the landlord in relation to the design of the fence as required by clause 4 of the park rules;
- That the tenant will ensure that his dog is not allowed to return to the park as the dog is reported to have posed a risk to other occupants and their pets. The tenant agreed the landlord will be issued an Order of possession which may be served to the tenant, resulting in an end of the tenancy, should the tenant fail to ensure that the dog remains away from the park;

- The landlord undertakes not to evict the tenant should the dog be in a vehicle of a visitor who is in the park for a short visit of no more than several hours. The landlord also undertakes to provide the tenant with a final written warning regarding the dog before serving the Order of possession;
- That the tenant will not obtain a dog unless he complies with clause 15 of the park rules; and
- That the tenant will ensure that he does not cause noise, such as putting on a loud radio that might disturb other occupants of the park.

This mutual agreement was fully reviewed with the parties. The tenant expressed his understanding of the risk to his tenancy should the dog return to the park and accepted responsibility for ensuring that this does not occur.

The parties accepted that this mutually settled agreement would be enforceable and that the Order of possession would be issued.

Section 62(3) of the Act provides:

(3) The director may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement and an order that this Act applies

Therefore, in support of the mutual agreement I have made the following Orders:

- By January 1, 2016 the tenant must repair the deck, the stairs to the deck and the railing of his home;
- By March 14, 2016 the tenant must repair the fence on his site and that he must consult with the landlord in relation to the design of the fence as required by clause 4 of the park rules;
- That the tenant is responsible for ensuring the his dog remains away from the park property at all times, with the exception of being present in a visitors' vehicle for short periods of time (no more than 1 – 2 hours);
- That if the tenant fails to ensure his dog remains away from the park, as agreed, the landlord may serve the tenant an Order of possession which will result in the tenancy ending;
- That the landlord may only serve the Order of possession for a breach of the agreement related to the dog; and
- That the Order of possession may only be served after a final written warning is provided to the tenant, based on a breach of the terms of this agreement related to the dog.

Further, I find and Order that if the tenant fails to comply with the terms of the mutually settled agreement for repair and obtaining a new dog, the landlord is at liberty to issue a 1 month Notice to end tenancy for cause.

Conclusion

The parties reached a mutually settled agreement.

Orders have been issued in support of the mutually settled agreement

This decision and mutually settled agreement is final and binding and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 55(1) of the *Manufactured Home Park Tenancy Act*.

Dated: September 14, 2015

Residential Tenancy Branch

