



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC

Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution wherein she sought to cancel a Notice to End Tenancy for Cause issued on September 22, 2015 (the "Notice").

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

The parties agreed that all evidence that each party provided had been exchanged. No issues with respect to service or delivery of documents or evidence were raised. At the hearing on December 8, 2015 the Tenant alleged she had substantially cleaned her manufactured home site the day before the hearing (December 7, 2015). By interim decision dated December 8, 2015, I permitted both parties to submit photos of the interior and exterior of the manufactured home site provided that the photos were taken that day (December 8, 2015) and submitted by close of business December 15, 2015. Both parties complied with my Order and submitted further photos of the condition of the manufactured home. I have considered those photos in this Decision.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Interim Decision.

Preliminary Matters

On her Application for Dispute Resolution the Tenant applied under the *Residential Tenancy Act*. As the subject tenancy is a manufactured home site, I have amended her application for Dispute Resolution, pursuant to section 57(3)(c), to correctly claim under the *Manufactured Home Park Tenancy Act* (hereinafter referred to as the *Act*).

At the hearing the Landlord made an oral request for an Order of Possession in the even the Tenant's Application was dismissed.

Issues

1. Should the Notice be cancelled?
2. Is the Landlord entitled to an Order of Possession?

Background Evidence

The Landlord testified that the tenancy began March 23, 2015. He stated that the Tenant purchased a manufactured home within the manufactured home park. The Landlord stated that the Tenant was a very nice person, but the condition of her manufactured home site was a considerable problem. He stated that within six weeks of the tenancy beginning the Landlord sent a letter to the Tenant about the condition of her site.

He stated that although he spoke to the Tenant regularly about the condition of her rental, and she continually made promises to correct the situation over the summer, the problem persists.

Introduced in evidence was a letter from the Landlord to the Tenant dated May 7, 2015 wherein he advises her that other occupants of the manufactured home park complained about the "mess around [her] house". In this letter the Landlord provided the Tenant with photos of her rental site.

The Landlord submitted another letter which was sent to the Tenant, dated September 10, 2015, and in which the Landlord notes he has sent two previous letters as well as photos. In this letter the Landlord notes that other occupants of the manufactured home site had contacted the health department as they were very worried about the Tenant's rental site. He specifically advises the Tenant that her behaviour is infringing on other renters' rights, and that she is creating a fire hazard as well as attracting rodents. The Landlord also informed the Tenant in this letter that he had photos of the property taken from week to week which confirm little real progress had been made in terms of cleaning her rental site, despite her repeated assurances that she will address the issue.

The Landlord also submitted another letter dated September 10, 2015 wherein he informed her that her “grace period is coming to an abrupt end”.

In a further letter from the Landlord to the Tenant dated September 16, 2015 he informs the Tenant that the fire department’s investigative branch will be investigating her rental site. In this letter the Landlord suggests the Tenant seek professional help to address her hoarding behaviour.

The Landlord submitted numerous photos of the rental site taken over many months and which depict significant amounts of refuse, boxes, appliances, clothes hangers, light fixtures, broken laundry hampers, blankets and tarps, a mattress, and otherwise depict a cluttered and unsightly yard. The Landlord also submitted photos of a vehicle which appears to be full of recyclables and refuse.

On September 22, 2015 the Landlord issued a 1 Month Notice to End Tenancy for Cause with an effective date of November 14, 2015 (the “Notice”).

The reasons the Landlord issued the Notice are noted as follows:

1. the Tenant or a person permitted on the residential property by the Tenant has
 - significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
 - seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
 - put the landlord's property at significant risk;
2. the Tenant has engaged in illegal activity that has caused or is likely to
 - adversely affect or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
 - jeopardize or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
3. Breach of a material term that was not corrected within a reasonable time after written notice to do so;
4. the rental unit must be vacated to comply with a government order;
5. Non-compliance with an order under the legislation within 30 days after the tenant received the order or the date in the order

The Landlord stated that the condition of the rental site was “unbelievable” and like nothing he had ever seen before. He also stated that he had stopped by the rental site

the day before the hearing and while she had cleaned somewhat, the condition was virtually the same as it has been for five months.

The Landlord submitted in evidence letters from numerous neighbours who wrote of their concerns with the condition of the Tenant's manufactured home site, the existence of unsightly garbage and the possibility of rodents.

The Tenant admitted she suffered from compulsive hoarding disorder. She also stated that she had similar problems at her previous residence. As noted previously in this my Decision the Tenant testified that she had substantially cleaned her property the day before the hearing; namely, between 3:30 p.m. and 5:30 p.m. on December 7, 2015. She stated that a refuse removal company filled a "2 ton truck" full of items and that the neighbours would be "proud" of how her rental site appeared now that she had cleaned it up. She stated that she wanted to be able to submit photos of the current condition of her rental site as she felt she had taken considerable steps to address the Landlord's concerns.

Both parties submitted photos of the rental unit taken after our hearing on December 8, 2015.

The Tenant submitted three photos of her manufactured home site. She also submitted photos of another manufactured home park site in the park as well as a handwritten document wherein she writes:

"page 11 depicts my next door neighbor [name withheld] having an extreme messy, hoarded, cluttered GARAGE.

I don't it's fair to get evicted if my neighbor and 3-4 other tenants in the same park have cluttered messes in their yard.

I needed a boost-jump/start for my car and knocked on several doors. I also saw that I'm not the only tenant with this challenge."

[Reproduced as Written]

The Tenant also submitted letters of support from two people. In my interim decision I specifically provided that neither party was to submit any further evidence save and except for the photos taken on December 8, 2015. Accordingly, I decline to consider these letters.

The Landlord submitted photos taken on December 8, 2015 of both the outside and inside of the manufactured home. While it is clear the Tenant has taken steps to clear the outside area of her manufactured home site, the vehicle depicted in the previous photos continues to be filled with plastic bags, miscellaneous items and recyclables. As well, bags of refuse and broken furniture, artificial plants and paint cans are visible outside the manufactured home; some of the items are covered in tarps and some are in plain view

The Landlord wrote that the interior photos were taken either of the sunroom or the view from an ½ opened door. The Landlord writes that he was not able to walk into the manufactured home because of its condition and the 13 photos submitted suggest the rooms were impassable. The photos of the inside of the manufactured home depict extremely cluttered and unclean living areas. It also appears as though the same mattress, as well as other items, which were outside in the previous photos have been simply moved into the manufactured home.

Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find that the Tenant's Application to cancel the Notice must be dismissed.

I find the Landlord has proven that the Tenant's hoarding behaviour has seriously jeopardized the health or safety of other occupants, and has seriously jeopardized the lawful right or interest of the Landlord.

Section 26 of the *Manufactured Home Park Tenancy Act* provides that a Tenant must maintain reasonable health, cleanliness and sanitary standards throughout the manufactured home site and in common areas.

I find that the Tenant has breached section 26 of the *Act* by failing to maintain reasonable health, cleanliness and sanitary standards in the rental site. I find that the Tenant is hoarding items both inside and outside of her manufactured home, and that the Tenant is not maintaining manufactured home site in a reasonably healthy and sanitary manner. While I accept the exterior may have improved since the Landlord has issued the Notice, it appears to me that the Tenant has a pattern of hoarding and then ignoring or neglecting the cleanliness of the manufactured home site until forced to do so by the Landlord. Section 26 of the *Act* requires the Tenant to conduct ongoing cleaning to maintain the cleanliness and sanitary condition of the rental unit, not just in an attempt to cancel a Notice to End Tenancy issued by the Landlord.

It is of no consequence that others in the park may have unsightly yards as this application relates only to the Tenant's manufactured home site.

For these reasons, I found that the Notice should not be cancelled and that the Application of the Tenant should be dismissed.

Pursuant to section 48 of the *Act*, the Landlord may request an Order of Possession in the event a Tenant's Application to dismiss a Notice is dismissed. Therefore, I grant the Landlord an Order of Possession **effective two days after service.**

Conclusion

The Landlord's Notice to End Tenancy for cause was found to be valid. The Tenant, or a person allowed on the property by the Tenant, is hoarding items creating a situation which jeopardizes the health and safety of other occupants in the manufactured home park and is putting the Landlord's property at significant risk.

The Landlord is entitled to an Order of Possession effective two days after service.

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 18, 2015

Residential Tenancy Branch

