



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application pursuant to the *Manufactured Home Park Tenancy Act* ("the Act") for cancellation of the landlord's 1 Month Notice to End Tenancy for Cause ("the 1 Month Notice") pursuant to section 40.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, and to make submissions. The tenant acknowledged receipt of the landlord's 1 Month Notice and the landlord acknowledged receipt of the tenant's Application for Dispute Resolution package. Both parties confirmed receipt of the other's evidentiary submissions for this hearing.

Issue(s) to be Decided

Should the landlord's 1 Month Notice be cancelled?

If not, is the landlord entitled to an Order of Possession?

Background and Evidence

According to both parties, this tenancy began in approximately 2010. Neither party can remember the exact date that the tenancy commenced and both parties confirmed that no written tenancy agreement exists. The tenant testified that the current rental amount of \$500.00 is payable on the first of each month. The parties agreed that the tenant provided a \$100.00 security deposit at the outset of the tenancy.

The landlord testified that, on November 25, 2015, the tenant was served with a 1 Month Notice to End Tenancy. The landlord's 1 Month Notice provided the reasons to end the tenancy;

- *Tenant has allowed an unreasonable number of occupants in the unit/site*

- *Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *Tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.*
- *Rental unit/site must be vacated to comply with a government order.*

The landlord testified that the tenant was a good tenant and there were no residential tenancy issues until the tenant's grandson moved into the rental unit. She testified that he allowed that the tenant's grandson allowed other people onto the residential premises. The landlord also testified that the tenant's grandson and friends are conducting illegal activity on the premises, that the police have attended numerous times to the residential premises and that there are cases pending against the tenant's grandson.

The landlord also testified that the manufactured home park where the tenant resides will close in March 2016 based on an order from a local government agency. After this hearing, the landlord produced a letter dated January 27, 2016 regarding the business license for the trailer park in question; "This is a written notice that you are to cease and desist your business operations on March 1, 2016. The letter states that the business licence will be cancelled as of March 1, 2016 on the basis that the landlords have not; kept a complete and accurate motel register; have allowed wrecked vehicles to remain on the property; and that the premises are unsightly.

The tenant's advocate stated that this hearing represents the landlord's sixth attempt to evict this tenant. On behalf of the tenant, the advocate stated that there is a regular police presence at the residential property but it is not as a result of activities of the tenant. The tenant testified that there are numerous individuals within the manufactured home park who are involved with activity that causes the police to attend.

The landlord submitted 3 witness letters that she stated were written by two different parties. The tenant's advocated requested that it be noted the letters did not have signatures, dates or contact information on them and the letter writers did not attend this hearing to testify.

The tenant testified that he doesn't understand why he's constantly being served with eviction notices; that he doesn't drink or party and he has called the police himself on occasion. His advocate submitted that the landlord has no grounds to end this tenancy at this time. She further noted that she has received no copy of the letter that the landlord referred to in the hearing with respect to the closure of the premises.

Analysis

When a tenant makes an application to cancel a notice to end tenancy, the burden falls to the landlord to justify the grounds to end the tenancy and the validity of the notice. Based on the landlord's testimony and evidence submitted after this hearing, there may be an end to this tenancy if the premises are in fact closed. However, the landlord issued a 1 Month Notice to End Tenancy on November 25, 2015. At that time, the landlord claimed that;

- *Tenant has allowed an unreasonable number of occupants in the unit/site*
- *Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *Tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.*
- *Rental unit/site must be vacated to comply with a government order.*

The landlord provided minimal evidence regarding the number of occupants on the tenant's park site. The landlord testified that an unreasonable number of occupants reside on the site. The tenant denied this claim. I do not find that the landlord's letters from witnesses can be considered in the circumstances given that they lack the required information about the parties submitting the letters. Nor do the letters shed much light on this issue. The landlord presented no further evidence to sufficiently support her argument that the tenancy should end on this ground. Therefore, I will not consider this ground of the notice to end tenancy.

I note that the landlord also relied on the ground that the tenant has engaged in illegal activity that has or is likely to jeopardize a lawful right or interest of the landlord. Allegations on this ground require clear and decisive proof that the tenant or someone he has allowed on his property is engaged in illegal activity. The landlord did not present

no evidence, beyond her testimony that the tenant or his guests have engaged in any form of illegal activity. Given that the tenant disputes this allegation and I have found that there was insufficient documentary evidence submitted with respect to this ground to end a tenancy, I will not consider this ground of the notice to end tenancy any further.

I also will not consider the landlords submissions that the manufactures home site must be vacated to comply with a government order. I find that the only compelling evidence submitted with respect to this ground was submitted after this hearing, not served to the tenant and not applicable to a notice issued 2 months prior to its arrival. Based on all of these factors, I find that the tenant has not been required to vacate to comply with a government order as of the date of this hearing. I find there was insufficient evidence presented with respect to a previous order with respect to this tenant's manufactured home park site or the manufactured home park itself that shows an order requiring the tenant to vacate had been issued. I find that the tenant is entitled to the appropriate notice to end tenancy with respect to the complicated situation the landlord finds herself in with respect to city by-laws.

I also do not find that the tenant significantly interfered with or unreasonably disturbed the landlord or other occupants. It is reasonable to assume, based on the testimony of the landlord that the landlord has been perturbed and disturbed by the occupants at the manufactured home park site and that the landlord has lost some control over the living situation at the park site. However, the standard with which to consider the end of a tenancy is that a landlord or another occupant has been **unreasonably** disturbed or **significantly** interfered with. Based on the testimony of the landlord, and the testimony of the tenant (which I accept), I do not find that the landlord has provided evidence to meet the burden of proof, on a balance of probabilities that she or the other occupants was **unreasonably** disturbed by this tenant or his guests. I find that any disturbance to the landlord is within the realm of a larger crisis she is addressing at the manufactured home park site and that the tenant is not proven to be solely responsible, nor even significantly responsible for any disturbance at the site.

I am not satisfied that the landlord had sufficient grounds to issue the 1 Month Notice and obtain an end to this tenancy for cause. The tenant made an application pursuant to section 47(4) of the *Act* within ten days of receiving the 1 Month Notice. In this case, the tenant has successfully disputed this notice to end tenancy. The 1 Month Notice to End Tenancy for Cause should be cancelled. The tenancy will continue.

Conclusion

I grant the tenant's application to cancel the notice to end tenancy. The tenancy will continue.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 11, 2016

Residential Tenancy Branch

