



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Maple Pool Campsite Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an application by the tenants for an order setting aside a 1 Month Notice to End Tenancy for Cause. Both parties appeared and gave affirmed evidence. No issues regarding the exchange of evidence were identified.

Issue(s) to be Decided

Does the landlord have reason, within the meaning of the *Manufactured Home Park Tenancy Act*, to end this tenancy?

Background and Evidence

The rental unit is a pad in an RV park. There are both recreational and permanent sites in the park. The tenancy started November 1, 2013 when the tenants parked their fifth wheel trailer on one of the recreational sites. On June 1, 2014, a permanent site became available and the tenants moved their trailer onto it. They have remained there ever since.

The parties did not sign a written tenancy agreement. The monthly rent of \$350.00 is due on the first of the month. The tenants are also responsible for their own hydro.

The landlord says that whenever someone checks into the park, either as a recreational camper or as a permanent resident, they are given a copy of the park Code of Conduct. The tenants say the first time they saw this document was when it was included with the landlord's evidence package. The landlord responded that she has given the tenants the Code of Conduct many times, including every time she has spoken to them about a complaint made against them.

It is common ground that on July 6, 2016, the landlord gave the tenant a warning letter about their dog being off leash in the park. The tenant testified that her dog is usually inside their home and the letter referred to the only two occasions that he was loose.

The tenant also testified that the rule about keeping dogs on a leash is not uniformly enforced in the park – even the landlord walks around with her dogs off-leash.

The park is adjacent to a river. The river and the land immediately beside the river is public land but to access the river one must go through the park.

On September 5, 2016, the tenant had her dog at the river. Her dog is an eight-year-old, 130 pound Rottweiler Husky cross. Her neighbour was also at the river with her dog. The neighbour's dog is a two-year-old, 100 pound Pit Bull. Both dogs are male and unneutered. They were both off-leash and playing in the water when they started to fight. There was conflicting evidence as to which dog was the aggressor. The Pit Bull's owner attempted to break up the fight and was bitten in the hand. Both dogs suffered injuries inflicted by the other dog.

The landlord testified that when she saw the injuries to the neighbour and the Pit Bull she decided she had to take action. What if the dog had bitten a child? She served the tenants with a 1 Month Notice to End Tenancy for Cause. The reason stated on the notice was that the tenants or a person permitted on the property has seriously jeopardized the health or safety or lawful right of another person.

The landlord testified that since the tenants have been served with the notice they are careful about not letting their dog run loose.

The Pit Bull owners only lived in the park for a month. The tenant described them as heavy drinkers and aggressive when drunk. They moved out of the park a couple of weeks after the dog fight and the morning after the police attended at their unit. Although some theories were advanced as to their reasons for moving out unexpectedly there was no substantive evidence on the topic.

The tenant testified that this was the only time her dog has been in a fight although he did rescue a Jack Russell Terrier from the jaws of a bear in the past year. She said that her dog is a great favourite of her neighbours who are always bringing him treats or taking him for walks.

The landlord testified that one of the Pit Bull owners told her that the male tenant had threatened him and this really concerned her. The tenants testified that the Pit Bull owner came to their unit drunk, aggressive and threatening on more than one occasion. It was in response to those threats that the male tenant told the neighbour he was prepared to defend themselves. There was no evidence from either of the Pit Bull owners.

The landlord expressed her suspicions that the tenants are engaged in illegal behaviour. These suspicions are based upon statements made to her by other occupants of the park. The tenant testified that these rumours started in July when she started a new job. She frequently works from 4:00 pm to 12:15 pm. She gets home late and sometimes goes out again after coming home. The tenant says it is the late hours that is fuelling the speculation.

Both parties say they trouble getting witnesses because of fear of reprisals from the landlord or the tenants.

Analysis

On an application such as this the onus is on the landlord to prove the allegations on which the notice to end tenancy is based, on a balance of probabilities.

Although there was some suggestion that the tenants are engaged in illegal activity that was not a reason stated on this notice to end tenancy and, even if it had been, the evidence submitted at this hearing was not sufficient to establish that ground.

The allegations against the tenants boil down to the following:

- Their dog got into a fight another tenant's dog.
- The fight occurred outside of the park.
- The other tenant moved out of the park shortly after for reasons that are unknown, and may or may not have been related to the tenants or their dog.

There is no evidence of ongoing behaviour issues with the tenants' dog. The only other recent complaint against the tenants is that they drive a noisy motor vehicle in and out of the park late at night or early in the morning. This is not a sufficient ground for ending a tenancy, although the tenants may want to change their late night parking habits as a courtesy to their neighbours.

The evidence presented by the landlord does not meet the required standard of proof. The tenants' application is granted. The 1 Month Notice to End Tenancy for Cause dated September 5, 2016, is set aside and is of no force or effect. The tenancy continues until ended in accordance with the legislation.

As the tenants' did not pay a fee to file this application no other order is required.

Conclusion

For the reasons set out above, the 1 Month Notice to End Tenancy for Cause dated September 5, 2016, is set aside and is of no force or effect. The tenancy continues until ended in accordance with the legislation.

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 29, 2016

Residential Tenancy Branch