



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

This hearing dealt with the landlord's application pursuant to the *Manufactured Home Park Tenancy Act* for an Order of Possession for cause pursuant to section 48.

The tenant did not attend this hearing, although I waited until 11:12 a.m. in order to enable her to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord's agent, DH ('landlord') appeared on behalf of the landlord and had full authority to do so. DH was given a full opportunity to be heard, to present evidence and to make submissions.

The landlord's agent, DH, testified that the tenant was sent a copy of the dispute resolution hearing package ('Application') and evidence by way of registered mail on May 20, 2017. The landlord provided a Canada Post tracking number during the hearing. In accordance with sections 81, 82, and 83 of the *Act*, I find that the tenant had been deemed served with the Application and evidence on May 25, 2017, five days after mailing. The tenant did not submit any written evidence for this hearing.

The landlord's agent testified that the tenant was served the 1 Month Notice to End Tenancy for Cause ('1 Month Notice') by posting the notice on the door of the home on April 12, 2017. In accordance with sections 81 and 83 of the *Act*, the 1 Month Notice was deemed served on April 15, 2017, three days after its posting. The effective date of the 1 Month Notice is corrected to May 31, 2017.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for Cause?

Background and Evidence

This month-to-month tenancy began on February 1, 2015, with monthly pad rent currently set at \$466.00, payable on the first of each month. The landlord does not currently hold a security deposit.

The landlord submitted the notice to end tenancy providing four grounds:

1. The tenant has not done required repairs of damage to the unit/site;
2. Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so;
3. Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord; and
4. Tenant or a person permitted on the property by the 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.

The landlord's agent provided undisputed testimony during the hearing that the tenant has failed to maintain the exterior of her home in the manufactured home park, as required by the tenancy agreement and park rules. The landlord submitted in evidence a copy of the rules, which state that "the Tenant will maintain ordinary health, cleanliness and sanitary standards throughout the Site and the Park, and will maintain the exterior of his home and yard (the Site) in a neat and attractive manner". The landlord's agent testified that the tenant's portion of the property is cluttered with garbage and large household items like a mattress, which has contributed to an unsanitary and unsafe environment for all 144 pads in the park. The agent submitted a colour photo depicting the exterior of the home and surroundings cluttered with debris and garbage, including a mattress.

The landlord's agent testified that the tenant has also engaged in physically belligerent behaviour towards the management, and the police have been called on many occasions. The landlord's agent testified that 4 infraction letters have been sent to the tenant in regards to the tenant's failure to abide by the park rules and tenancy agreement. Copies of these letters were submitted in the landlord's evidence.

Analysis

Section 40 of the *Manufactured Home Park Tenancy Act* allows the landlord to end a tenancy for cause:

Landlord's notice: cause

- 40** (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies...

(c) the tenant or a person permitted in the manufactured home park by the tenant has

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the manufactured home park...

(d) the tenant or a person permitted in the manufactured home park by the tenant has engaged in illegal activity that

(ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the manufactured home park...

(f) the tenant does not repair damage to the manufactured home site, as required under section 26 (3) [*obligations to repair and maintain*], within a reasonable time;

(g) the tenant

(i) has failed to comply with a material term, and

(ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;

Based on undisputed testimony of the landlord's agent, I find that the tenant was served with the Notice to End Tenancy, and I find that the 1 Month Notice does comply with the form and content provisions of section 45 of the *Act*, which states that the Notice must: be in writing and must: (a) be signed and dated by the landlord or tenant giving the notice, (b) give the address of the manufactured home site, (c) state the effective date of the notice, (d) except for a notice under section 38 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and (e) when given by a landlord, be in the approved form.

Section 40 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. I find that the tenant has failed to file his application for dispute resolution within the ten days of service granted under section 40(4) of the *Act*. Accordingly, I find that the tenant is conclusively presumed under section 40(5) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 1 Month Notice, May 31, 2017.

In this case, this required the tenant and anyone on the premises to vacate the premises by May 31, 2017. As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession against the tenant, pursuant to section 48 of the *Act*.

Conclusion

I find that the landlord's 1 Month Notice is valid and effective as of May 31, 2017. I grant an Order of Possession to the landlord effective two **days after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: July 5, 2017

Residential Tenancy Branch