



Dispute Resolution Services

Page: 1

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 ET, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Manufactured Home Park Tenancy Act (the MHPTA)* for:

- an early end to this tenancy and the issuance of an Order of Possession pursuant to section 49; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 65.

The landlord participated in the teleconference, the tenant did not. The landlord gave affirmed testimony that the tenant was served notice of this hearing at 9:20 p.m. on December 28, 2017 in the presence of a witness. Based on the undisputed testimony I am satisfied that the tenant was served notice of this hearing in accordance with Section 82 of the Act and I therefore proceeded in their absence.

Issues(s) to be Decided

Is the landlord entitled to an early end of tenancy and an Order of Possession?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord gave the following testimony. This tenancy began "about two years ago. The landlord testified that the parties are on a "verbal month to month contract" with no papers". The landlord testified that the tenant pays \$350.00 for the rental of the pad in the park.

The landlord testified that the tenant consistently has parties that run late into the morning. The landlord testified that the tenant gets extremely drunk and that he disturbs other tenants. The landlord testified that the tenant "threatened to fire" people. The landlord testified that the police have had to attend on several occasions. RS gave testimony that the tenants is a nuisance and "bad apple" in the park. RS testified that he is verbally abusive and steals from other tenants. The landlord requests that the tenancy end early and that she is granted an order of possession.

Analysis

When a landlord makes an application for an early end to tenancy, the landlord has the burden of proving that:

1. There is cause for ending the tenancy, such as unreasonably disturbing other occupants, seriously jeopardizing the health and safety or lawful right or interest of the landlord and placing the landlord's property at significant risk; **and**
2. That it would be unreasonable or unfair to the landlord or other occupants to wait for a one month Notice to End Tenancy for cause under section 47 of the Act to take effect.

Section 56 of the Act uses language which is strongly written and it's written that way for a reason. A person cannot be evicted simply because another occupant has been disturbed or interfered with, they must have been **unreasonably** disturbed, or **seriously** interfered with. Similarly the landlord must show that a tenant has **seriously** jeopardized the health or safety or lawful right or interest of the landlord or another occupant, or put the landlord's property at significant risk and that it's **unfair** to the landlord or other occupants to wait for a Notice to End Tenancy. I do accept that the tenant has been a nuisance; however the incidents alleged by the landlord are not enough to justify the early end of tenancy.

In this case, I am not satisfied that the landlord has met the second part of the test by showing that it would be unreasonable or unfair for a one month Notice to End Tenancy to take effect. Although there may be cause to end this tenancy pursuant to Section 40 of the MHPTA; I do not find it is unfair or unreasonable for the landlord to wait for a one month Notice to End Tenancy to take effect.

Conclusion

I dismiss the landlord's application in its entirety.

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: January 17, 2018

Residential Tenancy Branch